SUPREME COURT OF THE UNITED STATES.

No. 432.

THE TOWN OF BELOIT, APPELLANT,

vs.

SAMUEL C. MORGAN.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF WISCONSIN.

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1 UNITED STATES OF AMERICA,
District of Wisconsin, ss:

At a stated term of the circuit court of the United States of America for the seventh circuit and district of Wisconsin, begun and held according to law on the first Monday of January, A. D. 1867, at the city of Madison, in said district of Wisconsin, present and presiding the Hon. Andrew G. Miller, district judge. On the second day of the term, to wit, on the eighth day of January, A. D. 1867, the following proceedings were had, to wit:

THE TOWN OF BELOIT
vs.
SAMUEL C. MORGAN. } In equity.

Be it remembered that heretofore, to wit, on the twenty-sixth day of April, A. D. 1866, the above-named complainant, by its solicitors, Messrs. Palmer & Hooker, filed in the office of the clerk of the circuit court of the United States for the district of Wisconsin its bill of complaint against the above-named defendant in the words and figures following, to wit:

Circuit court of the United States for the district of Wisconsin.

THE TOWN OF BELOIT
vs.
SAMUEL C. MORGAN. } In equity.

To the judges of the circuit court of the United States for the district of Wisconsin:

The town of Beloit, a municipal corporation created by and existing in and under the laws of the State of Wisconsin, complain-
2 ant, brings this, its bill of complaint, against Samuel C. Morgan, a citizen of the State of Rhode Island, defendant.

And thereupon your orator, the said the town of Beloit, shows to the court that heretofore, to wit, on the tenth day of February, A. D. 1853, a bill purporting to be an act of the legislature of the State of Wisconsin was passed by the senate and assembly of the said State, and approved by the governor of the said State of Wisconsin on that day, entitled "An act to authorize the town of Beloit to aid in the construction of a certain railroad from the city of Racine to the village of Beloit," in the words following, viz:

"The people of the State of Wisconsin, represented in senate and assembly, do enact as follows:

"Section 1. The board of supervisors of the town of Beloit are hereby authorized to subscribe for the town of Beloit one hundred thousand dollars to the capital stock of a railroad company authorized to construct a railroad from the city of Racine to the village of Beloit, and to pay for the same in the bonds of said town, payable in twenty years, with interest payable annually, in the city of New York, not exceeding seven per cent.

"Sec. 2. The shares of stock in said railroad company thus taken

by said town, and all dividends arising from the same, are hereby irrevocably pledged for the payment of the interest and principal of said bonds: Provided, however, That the board of supervisors of said town may sell such shares; but the proceeds thereof and interest shall still be pledged to pay the interest and principal of said bonds.

"Sec. 3. The board of supervisors of the town of Beloit, whenever the same shall become necessary, shall annually levy a tax upon the taxable property of said town sufficient to pay the interest upon such bonds, after deducting the dividends due to such town on said shares of stock.

"Sec. 4. The board of supervisors of said town shall annually appoint one railroad commissioner, who shall attend the annual or special meetings of the stockholders of said railroad company for the election of directors thereof, and shall be entitled to cast one vote for every share of stock which said town shall hold in
3 said railroad company; and in case of his absence or inability to attend, to appoint, in writing under their hands, some other person who shall have the same power.

"Sec. 5. No bonds shall be issued in pursuance of the provisions of this act until a majority of the legal voters of said town, voting upon said question, shall vote in favor of the same at an election called by the said board of supervisors for that purpose, to be held in the village of Beloit. At such election those voting in favor shall vote a ballot with the words inscribed thereon, 'For the railroad,' and those voting against shall vote a ballot with the words inscribed thereon, 'Against the railroad.' One week's previous notice of said election shall be given in a public newspaper printed in the village of Beloit, and this act shall be published in connection therewith. Said election shall be conducted, and the returns thereof made and canvassed in the same manner as the annual town meetings of the (said town.)

"Sec. 6. This act shall take effect immediately.

"Approved February 10, 1853."

That the said act so passed and purporting to be an act of the legislature of said State was a general and public law, and by the provisions of the constitution and laws of the State of Wisconsin in force at the time of the pretended passage and approval thereof, could not take effect or be in force until the same should be published.

And your orator further shows that the said bill so entitled, passed, and approved, and so purporting to be an act of the legislature of the said State, was not published or printed by the person authorized to print the laws of the State, or by any other person or officer under the authority of the said State, in any newspaper printed at the seat of government of the said State, or in any printed volume of the laws of said State before the 4th day of October, in the year one thousand eight hundred and fifty-three, on or immediately after which last-mentioned day the same was, for the first time, printed and published under the authority of the said State in

a volume of the laws of the said State by one Daniel Atwood, then being the person authorized to print the laws of said State under the constitution and laws of the said State.

4 And your orator further states that the bill so passed, entitled, and approved, and so purporting to be an act of the legislature of the said State, was not passed either by the assembly or senate of the said State as required by the constitution of the said State; and that on its passage in the said senate and in the said assembly, respectively, the question was not taken in either of those bodies by yeas and nays, nor such yeas and nays entered on the journal of those bodies, respectively, or of either of them.

II. Your orator further shows to the court that after the passage of the said act, and before the publication thereof by the person then authorized by the laws of the said State to print the laws of the said State in a newspaper printed at the seat of government, and before the publication thereof in the volume of laws of the said State for the said year eighteen hundred and fifty-three, to wit: On the 28th day of March, 1853, the supervisors of the said town of Beloit gave notice of an election to be held in the village of Beloit on the 7th day of April, 1853, to commence at 9 o'clock a. m., for the purpose of determining by a vote of a majority of the legal voters of the said town of Beloit at such election whether the board of supervisors of the said town of Beloit should subscribe for the said town one hundred thousand dollars to the capital stock of a railroad company authorized to construct a railroad from the city of Racine to the village of Beloit, and to pay for the same in the bonds of the town, in pursuance of the provisions of the said act of the legislature above mentioned.

That your orator is informed and believes that afterwards, and on the twenty-first day of May, A. D. 1853, the supervisors of the said town of Beloit, by an article of subscription dated on that day by them subscribed, did subscribe for, on behalf and in the name of said town of Beloit, for one thousand shares of the capital stock of the Racine, Janesville, and Mississippi Railroad Company of one hundred dollars each, amounting in the aggregate to one hundred thousand dollars, to be paid for in the bonds of said town of Beloit, payable in twenty years, with interest, payable annually, at seven per cent., in the city of New York.

5 And your orator further shows to the court the said Racine, Janesville, and Mississippi Railroad Company then, to wit, on the said twenty-first day of May, A. D. 1853, was, and for more than two years thereafter continued to be, a corporation created by and existing under and by virtue of the laws of the State of Wisconsin.

III. That the said Racine, Janesville, and Mississippi Railroad Company was incorporated by, and organized under, an act of the legislature of the State of Wisconsin, entitled "An act to incorporate the Racine, Janesville, and Mississippi Railroad Company," approved April 17th, 1852; that by the said act the said Racine, Janesville, and Mississippi Railroad Company was authorized and empowered

to locate and construct a single or double track railroad from the city of Racine, via the village of Janesville, through the counties of Rock, Green, La Fayette, and Grant, to the Mississippi river; and your orator, upon information and belief, shows to the court, and alleges that at the time of the pretended passage of the said act of the legislature, entitled "An act to authorize the town of Beloit to aid in the construction of a certain railroad from the city of Racine to the village of Beloit," and at the time of the giving of the said notice by the said supervisors of the said town of Beloit, for the holding of the said election, and at the time of the making of the said subscription for one thousand shares of the capital stock of the said Racine, Janesville, and Mississippi Railroad Company, by the said supervisors of the said town of Beloit, for and on behalf of, and in the name of the said town of Beloit, as above stated and set forth, and at the time of the date, execution, issuing, and delivering of the bonds of the said town of Beloit in payment of such subscription and for said shares of stock as hereinafter set forth, the said Racine, Janesville, and Mississippi Railroad Company was not authorized to construct a railroad from the city of Racine to the said village of Beloit.

IV. And your orator further shows, that at the time of the making of the said subscription to the capital stock of the said railroad company by the supervisors of the said town of Beloit for and on behalf of, and in the name of the said town of Beloit, as aforesaid,
6 the said supervisors of the said town of Beloit, for and in the name of the said town, made and entered into an agreement in writing with the said Racine, Janesville, and Mississippi Railroad Company, which agreement was dated the said twenty-first day of May, A. D. 1853, and was duly executed by the said Racine, Janesville, and Mississippi Railroad Company, under its corporate seal, by H. S. Durand, who then was president of the said company, and thereunto duly authorized, and was executed on the part of the said town of Beloit by the supervisors thereof, in and by which said agreement it was recited that, whereas the board of supervisors of the said town of Beloit had subscribed for, and in behalf of, said town for one thousand shares of said capital stock of the said company, by an article of subscription, dated on the said twenty-first day of May, A. D. 1853, in pursuance of an act of the legislature of the State of Wisconsin, entitled "An act to authorize the town of Beloit to aid in the construction of a certain railroad from the city of Racine to the village of Beloit," approved February 10th, 1853, in consideration of said subscription by the town of Beloit aforesaid, and of one dollar to the said company in hand paid by the said town of Beloit, the said railroad company did thereby covenant and agree to and with the said town of Beloit; First. That the bonds of the said town of Beloit to be issued for the amount of the said subscription should, in no case, be sold in market for less than ninety-five cents on the dollar, without the consent of the board of supervisors of said town or their agent. Second. That the amount of said subscription, as soon as realized, should be expended upon that portion of said railroad commencing at Beloit and running east to Delavan. Third. That said

company would pay all interest that might accrue on said bonds up to the time said railroad should be fully completed to Beloit. Fourth. That the stock subscribed by the town of Beloit should be entitled to at least one director in the board of said company. Fifth. That the stock owned by the town of Beloit should in no case be merged in the stock of any other road, branch, or corporation whatever, nor be liable to any assessment for any liability or contract with said
7 company with any other road, branch, or corporation, without the consent of said town of Beloit, unless the said railroad company should take, or offer to take, the said stock off the hands of the town of Beloit, at its value in the market not below par, as by the said agreement in writing, now in the possession of your orator, ready to be produced and proven as this honorable court shall direct, will, when so produced and proven, reference being thereunto had, more fully and at large appear.

V. And your orator further shows to the court, that for the purpose of paying to the said Racine, Janesville, and Mississippi Railroad Company the amount of the said subscription for the said one thousand shares of the capital stock thereof, so as aforesaid made for and on behalf and in the name of the said town of Beloit, afterwards, to wit, on or about the 7th day of October, A. D. 1853, one John Easterly, then being chairman of the board of supervisors of the said town of Beloit, and one M. V. Pasco, then being the clerk of the said town, did, for and in the name of the said town of Beloit, and under the corporate seal thereof, make and execute fifty separate and several bonds of the said town, each of them for the payment of one thousand dollars, on the tenth day of February, A. D. 1873, being twenty years from the date of the pretended passage and approval of the said act of the legislature to authorize the said town to aid in the construction of a railroad from the city of Racine to the said village of Beloit, and interest thereon at the rate of seven per cent. per annum, payable annually on the tenth day of each February ensuing the date thereof, until the principal sum shall be paid, each of which bonds had annexed thereto, and subscribed by W. W. Dexter, treasurer of the said town, twenty coupons, or interest warrants, each for the payment of one year's interest on the principal sum of the bond to which it was attached, that is to say, seventy dollars. The coupon or interest warrant first payable, annexed to each of said fifty bonds, was payable on the tenth day of February, A. D. 1854, and was for the payment of seventy dollars, being for the interest, at seven per cent., upon the principal sum secured by the bond to which it was attached, from the tenth
8 day of February, A. D. 1853, to the tenth day of February, A. D. 1854, and the remaining coupons, or interest warrants, were payable, one for each bond, on the tenth day of February in each succeeding year, to and including the year 1873. That the said bonds were numbered from number one to number fifty, inclusive, and were all dated on the 21st day of May, A. D. 1853; and also one hundred separate and several bonds of the said town of Beloit, each of them for the payment of the sum of five hundred dollars, on

the tenth day of February, A. D. 1873, being twenty years from the date of the pretended passage and approval of said act of the legislature last aforesaid, and interest thereon at the rate of seven per cent. per annum, payable annually on the tenth day of each February ensuing the date thereof, until the principal sum shall be paid, each of which bonds had annexed thereto, and subscribed by W. W. Dexter, treasurer of the said town of Beloit, twenty coupons, or interest warrants, each for the payment of one year's interest on the principal sum of the bond to which it was attached, that is to say, thirty-five dollars; the coupons or interest warrants attached to each of said last-mentioned bonds first payable, was payable on the tenth day of February, A. D. 1854, and was for the payment of thirty-five dollars, being for interest, at seven per cent. per annum, upon the bond to which it was so attached from the tenth day of February, A. D. 1853, to the tenth day of February, A. D. 1854, and the remaining coupons, or interest warrants, were payable, one for each of said last-mentioned bonds, on the tenth day of February in each succeeding year, to and including the year 1873; that the said one hundred bonds last mentioned were respectively numbered with the numbers from number fifty-one to number one hundred and fifty, inclusive; and delivered the same—that is to say, the said fifty bonds for one thousand dollars each, and the coupons, or interest warrants, thereto attached, and the said one hundred bonds for five hundred dollars each, with the coupons or interest warrants thereto attached—to the said Racine, Janesville, and Mississippi Railroad Company; a copy of each of which said bonds, for the payment of one thousand dollars,
9 with the coupons or interest warrants thereto attached, except the number thereof, is hereto attached, and made a part of this bill of complaint, and marked Schedule A, and a copy of each of said bonds for the payment of five hundred dollars, with the coupons or interest warrants thereto attached, except the number thereof, is hereto attached and made a part of this bill of complaint, and marked Schedule B.

And your orator further shows to the court, that neither of the said one hundred and fifty bonds was or is payable in twenty years from the time when the same was so made, executed and delivered, and that neither of the said bonds was or is payable in twenty years from the date thereof, but that each and every of the said bonds so made, executed and delivered in the name of the said town of Beloit as aforesaid, was and is made payable on the tenth day of February, A. D. 1873, and within less than twenty years from the date thereof, that is to say, in nineteen years, eight months, and twenty days, and within less than twenty years from the time when the said bonds were actually so made, executed, and delivered to the said Racine, Janesville & Mississippi Railroad Company as aforesaid, to wit: the said seventh day of October, A. D. 1853, that is to say, in nineteen years, four months, and three days from the time last aforesaid; and your orator is informed and believes and alleges that neither the said town of Beloit nor any officer thereof was legally authorized or empowered to make, execute, issue, or deliver the said bonds or either

of them, and that each and every of the said bonds and the coupons thereto attached, was made, executed, and delivered without any legal authority therefor, and in violation of the provisions of the said pretended act of the legislature of the State of Wisconsin, entitled An act to authorize the town of Beloit to aid in the construction of a certain railroad from the city of Racine to the village of Beloit, and is null and void.

And your orator further shows to the court, that in and by each of the said bonds numbered from number one to number fifty,
10 inclusive, and being for the payment of one thousand dollars, and in and by the coupons thereto attached, there was and is reserved and stipulated to be paid to the said Racine, Janesville, and Mississippi Railroad Company, or to the holder of such bond and the coupons or interest warrants thereto attached, a greater sum and value for the forbearance of the money mentioned in and constituting the principal of the said bond, than seven dollars upon one hundred dollars for one year, and at that rate for the sum in such bond mentioned, and that the amount reserved and stipulated to be paid in each and every of the said bonds, and the coupons and interest warrants thereto attached, for interest for the forbearance of the principal sum in such bond mentioned, exceeded the rate of the sum of seven dollars upon one hundred dollars for one year for the sum in such bond mentioned, and the time such bond had to run from its date, the sum of eighteen dollars and sixty-two cents upon each and every of said bonds, numbered respectively from number one to number fifty inclusive, and the amount reserved and stipulated to be paid in and by all said bonds numbered from number one to number fifty, inclusive, and the coupons or interest warrants thereto attached, for interest for the forbearance of the principal sum in the said bonds mentioned, exceeded the rate of seven dollars for one year upon one hundred of the amount thereof for the time the same had to run from the date thereof, in the aggregate, the sum of nine hundred and thirty-one dollars; and that in and by each and every of the said bonds numbered respectively from number fifty-one to number one hundred and fifty, and being for the payment of five hundred dollars each, and in and by the coupons thereto attached, there was and is reserved and stipulated to be paid to the said Racine, Janesville, and Mississippi Railroad Company, or the holder thereof, a greater sum or value for the forbearance of the money mentioned in and constituting the principal of such bond than seven dollars upon one hundred dollars for one year, and at that rate for the sum in such bond mentioned, and
11 that the amount reserved and stipulated to be paid in and by each and every of the said last-mentioned bonds and the coupons thereto attached for interest for the forbearance of the principal sum in such bond mentioned, exceeded the rate of the sum of seven dollars upon one hundred dollars for one year, for the sum in such bond mentioned, and for the time such bond had to run from the date thereof, the sum of nine dollars and thirty-one cents upon each and every of the said last-mentioned bonds numbered respectively from number fifty-one to number one hundred and fifty, both inclu-

sive; and that the amount reserved and stipulated to be paid in and by the said last-mentioned one hundred bonds and the coupons or interest warrants thereto attached, for interest for the forbearance of the principal sum in the said bonds mentioned, exceeds the rate of seven dollars upon one hundred dollars for one year upon the amount thereof, for the time the same had to run from the date thereof, in the aggregate, the sum of nine hundred and thirty-one dollars, and your orator is informed and believes, and upon his information and belief alleges, that each and every of the said bonds so made and executed as aforesaid by the said John Esterly, chairman of the board of supervisors of the said town of Beloit, and the said M. V. Pasco, clerk of the said town, and sealed with the corporate seal of the said town, and numbered respectively from number one to number fifty, inclusive, and so delivered to the Racine, Janesville, and Mississippi Railroad Company, as aforesaid, and the coupons or interest warrants attached to the said bonds respectively were, and each and every was made, executed, sealed, and delivered by the said chairman of the board of supervisors and clerk of the said town of Beloit, and were taken and received by the said Racine, Janesville, and Mississippi Railroad Company, in violation of and contrary to the provisions of chapter one hundred and seventy-two of the laws of the State of Wisconsin, passed and enacted in the year eighteen hundred and and fifty-one, entitled "An act to limit the rate of interest,"
12 approved May 10, 1851, in force at the time of the execution and delivery of the said bonds and coupons as aforesaid, and also in violation of and contrary to the provisions of the said pretended act entitled "An act to authorize the town of Beloit to aid in the construction of a certain railroad from the city of Racine to the village of Beloit," approved February 10, 1853, and are void.

And your orator further shows to the court, that it is informed and believes, that before the execution and delivery of the said bonds and interest warrants as aforesaid, and on or about the said twenty-first day of May, A. D. 1853, it was corruptly, usuriously, and contrary to the form of the statute in such case made and provided, agreed by and between the supervisors of the said town of Beloit and the said Racine, Janesville, & Mississippi Railroad Company that your orator should execute and deliver its said bonds for one hundred thousand dollars, with interest at the rate of seven per cent. per annum, from the said tenth day of February, A. D. 1853, in payment of the one hundred thousand dollars so owing by said town to the said railroad company as aforesaid, for the stock so subscribed for as aforesaid, and the said bonds and coupons so as afore executed and delivered by the supervisors of the said town to the said Racine, Janesville & Mississippi Railroad Company, were so made, executed, and delivered by the said town, and received by the said railroad company, in pursuance of the corrupt and usurious agreement aforesaid.

And your orator further shows to the court, that it is informed and believes that all of the said bonds hereinbefore described were delivered to the said Racine, Janesville, and Mississippi Railroad Com-

pany, on or about the seventh day of October, A. D. 1853, in payment of the amount due said railroad company on said subscription, made by the supervisors of the said town of Beloit, on the 21st day of May, A. D. 1853, for one thousand shares of the capital stock of the Racine, Janesville, and Mississippi Railroad Company, and that the said Racine, Janesville and Mississippi Railroad Company was not authorized and had no power or authority at the time
13 such subscription was made, nor at the time the said bonds or coupons were delivered to and received by the said railroad company, nor at any time previous thereto, to construct a railroad from the said city of Racine to the said village of Beloit, and that the said subscription to the capital stock of the said Racine, Janesville, and Mississippi Railroad Company, so made by the supervisors of said town of Beloit as aforesaid, was made, and the said several bonds hereinfore described, and the coupons or interest warrants thereto attached were made, executed, and delivered to the said Racine, Janesville, and Mississippi Railroad Company by said officers of the said town of Beloit, and the said subscription to the capital stock of the said company, and the said bonds and coupons or interest warrants were taken and received by the said Racine, Janesville, and Mississippi Railroad Company without any legal right, form, or authority whatever, either in the supervisors of the said town of Beloit to make such subscription to and for the said one thousand shares of the capital stock of the said railroad company, or in the said chairman of the board of supervisors and clerk of the said town to make, execute, or deliver to the said railroad company the said several bonds, and the coupons or interest warrants thereto attached; or in the said Racine, Janesville, and Mississippi Railroad Company, or any of its officers or directors to take or receive such subscription for the said one thousand shares of the capital stock of the said company, or to take or receive the said bonds and coupons in payment therefor or otherwise.

VI. And your orator further shows to the court that it is informed and believes that the said bonds, with the coupons thereto attached, were sold in the market and disposed of by the said Racine, Janesville, and Mississippi Railroad Company at less than ninety-five cents on the dollar, without the consent of the board of
14 supervisors of the said town of Beloit or their agent, and that about seventy-five thousand dollars in amount of the said bonds were sold by the said Racine, Janesville, and Mississippi Railroad Company to L. G. Fisher, John M. Keep, and Sylvester Talcott, and Clom, contractors for building a portion of the said railroad extending from Burlington in the county of Racine to Beloit aforesaid, in part payment for constructing said road, for fifty cents on the dollar thereof, and that the remaining twenty-five thousand dollars in amount thereof were sold and disposed of by the said Racine, Janesville, and Mississippi Railroad Company to various parties to your orator unknown, but as your orator is informed and believes at prices greatly below ninety-five cents on the dollar, and that the sale of all the said bonds were so made without the consent of the board of supervisors of the said town of Beloit or their agent.

VII. And your orator further shows to the court, upon information and belief, that the proceeds of the said subscription so made by the board of supervisors of the said town of Beloit, to the capital stock of the said Racine, Janesville, and Mississippi Railroad Company as aforesaid, was not as soon as the same was realized, or at any time, expended upon that portion of said railroad commencing at Beloit, and running east to Delevan, but on the contrary thereof, seventy-five thousand dollars in amount thereof, being seventy-five thousand dollars in amount of the said bonds, was expended in part payment for the construction of said railroad from Burlington to Beloit, and the balance thereof was expended for the general expenses of the said railroad company.

VIII. And your orator is informed and believes that the said defendant Samuel C. Morgan is the owner of, and has in his possession and under his control all of the said bonds for the payment of one thousand dollars each, numbered from number one to number nine inclusive, and from number sixteen to number forty-seven inclusive, and of all of said bonds for the payment of five hundred dollars, each numbered from number sixty-one to number one
15 hundred inclusive, and all of said bonds for the payment of five hundred dollars each, numbered from number one hundred and twenty-one to number one hundred and thirty-eight, and from number one hundred and forty-one to number one hundred and fifty-inclusive, and all the unmatured coupons and interest warrants attached to the said bonds in this paragraph described; and that he is also the owner of, and has in his possession and under his control, the following coupons or interest warrants for interest heretofore accrued on the said bonds above described, or some of them, viz: the coupons or interest warrants for the interest payable on the tenth day of February, A. D. 1855, on those of the said bonds numbered one, two, three, four, five, six, seven, eight, nine, and thirteen; sixty-eight to seventy-two inclusive; seventy-nine to one hundred inclusive; one hundred and twenty-one to one hundred and twenty-five inclusive; one hundred and thirty-six to one hundred and forty-three inclusive; and one hundred and forty-six to one hundred and fifty inclusive, amounting to two thousand two hundred and seventy-five dollars; also the coupons or interest warrants for the interest which became payable on the tenth day of February, A. D. 1856, on those of said bonds numbered 1, 2, 3, 4, 5, 6, 7, 13, 44, 45, 47, 48, 49, 50, 63, 64, 66, 68, 69, 70, 72, 81, 82, 83, 84, 85, 95, 135 to 143, inclusive; 146, 148, and 149, amounting to eighteen hundred and fifty-five dollars; also the coupons or interest warrants for the interest which became payable on the tenth day of February, A. D. 1857, on those of said bonds numbered from number one to number twenty, both inclusive, and from thirty-one to thirty-five inclusive; thirty-eight and forty-five to fifty inclusive; sixty-one, sixty-two, seventy-two to one hundred inclusive; and one hundred and twenty-one to one hundred and fifty inclusive, amounting to four thousand three hundred and seventy-five dollars; also the coupons or interest warrants for the in-
16 terest which became payable on the tenth day of February,

A. D. 1858, on those of said bonds numbered from number one to nine inclusive; sixteen to nineteen inclusive; thirty-nine, forty, forty-two, forty-eight, forty-nine, sixty-one to sixty-five inclusive; sixty-eight, seventy-five to eighty-five inclusive; ninety, ninety-one, ninety-two, ninety-seven, one hundred and twenty-three to one hundred and thirty-five inclusive; one hundred and forty-one to one hundred and forty-eight inclusive, amounting to two thousand six hundred and ninety-five dollars; also the coupons or interest warrants for the interest which became payable on the tenth day of February, A. D. 1859, on those of the said bonds numbered from number one to number nine inclusive; number sixteen to number thirty inclusive; number thirty-nine to number fifty inclusive; sixty one to seventy inclusive; seventy-five to eighty-five inclusive; ninety, ninety-one, ninety two, ninety-seven to one hundred inclusive; one hundred and twenty-one to one hundred and thirty-eight inclusive, and one hundred and forty-one to one hundred and fifty inclusive, amounting, in the aggregate, to four thousand four hundred eighty dollars; also the coupons or interest warrants for the interest payable on the tenth day of February, A. D. 1860, on those of the said bonds, numbered from one to nine inclusive; from sixteen to thirty inclusive; from thirty-nine to fifty inclusive; from sixty-one to seventy inclusive; from seventy-five to eighty-five inclusive; ninety, ninety-one, ninety-two, ninety-seven to one hundred inclusive; from one hundred and twenty-one to one hundred and thirty-eight inclusive; and from one hundred and forty-one to one hundred and fifty inclusive, amounting in the aggregate to four thousand four hundred and eighty dollars; also the coupons or interest warrants for the interest payable on the tenth day of February, A. D. 1861, on those of said bonds, numbered from one to nine inclusive; from sixteen to fifty inclusive; from sixty-one to eighty-five inclusive; ninety, ninety-one, ninety-two, ninety-
17 five to one hundred inclusive; one hundred and twenty-one to one hundred and thirty-eight inclusive; and one hundred and forty-one to one hundred and fifty inclusive, amounting, in the aggregate, to five thousand eight hundred and eighty-five dollars; also the coupons or interest warrants for the interest payable on the tenth day of February, A. D. 1862, on those of the said bonds numbered from one to nine inclusive, from sixteen to forty-seven inclusive, from sixty-one to eighty-five inclusive, ninety, ninety-one, ninety-two, ninety-five to one hundred inclusive, from one hundred and twenty-one to one hundred and thirty-eight inclusive, from one hundred and forty-one to one hundred and fifty inclusive, amounting, in the aggregate, to five thousand and forty dollars; also the coupons or interest warrants for the interest payable on the tenth day of February, A. D. 1863, on those of said bonds numbered from one to nine inclusive, from sixteen to forty-seven inclusive, from sixty-one to ninety-five inclusive, from ninety-seven to one hundred inclusive, from one hundred and twenty-one to one hundred and thirty-eight inclusive, and from one hundred and forty-one to one hundred and fifty inclusive, amounting, in the aggregate, to five thousand two hundred and fifteen dollars; also the coupons or interest warrants

for the interest payable on the tenth day of February, A. D. 1864, on those of the said bonds numbered from one to nine inclusive, from sixteen to forty-seven inclusive, from sixty-one to one hundred inclusive, from one hundred and twenty-one to one hundred and thirty-eight inclusive. and from one hundred and forty-one to one hundred and fifty inclusive, amounting in the aggregate to five thousand two hundred and fifty dollars; also the coupons or interest warrants for the interest payable on the tenth day of February, A. D. 1865, on those of the said bonds numbered from one to nine inclusive, from sixteen to forty-seven inclusive, from sixty-one to ninety-four inclusive, from ninety-seven to one hundred inclusive, from one
18 hundred and twenty-one to one hundred and thirty-eight inclusive, and from one hundred and forty-one to one hundred and fifty inclusive, amounting, in the aggregate, to five thousand one hundred and eighty dollars; also the coupons or interest warrants for the interest payable on the tenth day of February, A. D. 1866, on those of said bonds numbered from one to nine inclusive, from sixteen to forty-seven inclusive, from sixty-one to one hundred inclusive, and from one hundred and twenty-one to one hundred and thirty-eight inclusive, and from one hundred and forty-one to one hundred and fifty inclusive, amounting, in the aggregate, to five thousand two hundred and fifty dollars.

IX. And your orator further shows to the court, that on or about the twenty-second day of December, A. D. 1863, ('2,) the said defendant, Samuel C. Morgan, brought his action in the district (circuit) court of the United States for the district of Wisconsin, against your orator, wherein the said defendant is plaintiff and your orator is defendant, to recover the amount of fifty-four of the said several interest warrants above described, being the warrants for the interest payable on the tenth day of February, A. D. 1858, on the said bonds numbered respectively as follows: Numbers seventy-five, seventy-six, seventy-seven, seventy-eight, seventy-nine, eighty, eighty-one, eighty-two, eighty-three, eighty-four, eighty-five, ninety, ninety-one, ninety-two, one hundred and forty-five, one hundred and forty-six, one hundred and forty-seven, and one hundred and forty-eight; and the interest warrants for the interest on the same eighteen bonds payable on the tenth day of February, A. D. 1859, and the interest warrants for the interest on the same eighteen bonds payable on the tenth day of February, A. D. 1860, amounting, in the aggregate, to eighteen hundred and ninety dollars, which said suit is at issue, and is now pending and undisposed of in this court.

X. And your orator further shows to the court, that afterwards, and on or about the thirtieth day of December, A. D. 1864, the said defendant brought his certain other action in this court, against
19 your orator, wherein the said defendant is plaintiff, and your orator is defendant, to recover the amount of a part of the said coupons or interest warrants above described, that is to say, the interest warrants payable on the tenth day of February, A. D. 1855, upon those of said bonds numbered from one to nine inclusive, number thirteen, from sixty-eight to seventy-two inclusive, from seventy-

nine to one hundred inclusive, from one hundred and twenty-one to one hundred and twenty-five inclusive, from one hundred and thirty-six to one hundred and forty-three inclusive, and from one hundred and forty-six to one hundred and fifty inclusive, and the interest warrants payable on the tenth day of February, A. D. 1856, upon those of the said bonds numbered from No. 1 to 7 inclusive, Nos. 13, 44, 45, 47, 48, 49, 50, 63, 64, 66, 68, 69, 60, 72, 81 to 85 inclusive, 95, 135 to 143 inclusive, 146, 148 and 149; and the interest warrants payable on the tenth day of February, A. D. 1857, upon those of the said bonds numbered from number 1 to 20 inclusive, from number thirty-one to number thirty-five inclusive, number thirty-eight, and from number 45 to 50 inclusive, number 61, 62, 72, to *to* 100, and from number 121 to number 150 inclusive. And the interest warrants payable on the tenth day of February, A. D. 1858, upon those of the said bonds numbered from number 1 to number 9 inclusive, from 16 to 19 inclusive, 39, 40, 42, 48, 49, and from 61 to 65 inclusive, 68, 97, from 121 to 132 inclusive, 134 and 135. And the interest warrants payable on the tenth day of February, A. D. 1859, upon those of the said bonds numbered from number 1 to 9 inclusive, from 16 to 30 inclusive, and from 39 to 50 inclusive, and from 61 to 70 inclusive, from 99 to 100 inclusive, from 121 to 138 inclusive, and Nos. 149 and 150. And the interest warrants payable on the tenth day of February, A. D. 1860, on those of the said bonds numbered from number 1 to number 9, from number 16 to 30 inclusive, and from 39 to 50 inclusive, and from No. 61 to 70 inclusive, from 97 to 100 inclusive, from 121 to 138 inclusive, and numbers 149 and 150; and the interest warrants payable on the tenth day of February, A. D. 1861, upon those of the said bonds numbered from No. 16 to No. 50 inclusive, and from No. 61 to 68 inclusive, 90, 91, 92, from 95 to 100 inclusive, from 121 to 138 inclusive, and from 145 to 150 inclusive; and the interest warrants payable on the tenth day of February, A. D. 1862, upon those of the said bonds numbered from No. 1 to No. 9 inclusive, from No. 16 to 47 inclusive, and from No. 61 to 85 inclusive, 90, 91, 92, 95, 96, 97, 98, 99, 100, from 121 to 138 inclusive, and from 145 to 150 inclusive; and the interest warrants payable on the tenth day of February, A. D. 1863, on those of the said bonds numbered from No. 1 to 9 inclusive, and from 16 to 47 inclusive, and from 61 to 95 inclusive, from 97 to 100 inclusive, from 121 to 138 inclusive, and from 145 to 150 inclusive; and the interest warrants payable on the tenth day of February, A. D. 1864, on those of the said bonds numbered from number 1 to number 9 inclusive, and from number 16 to 47 inclusive, and from No. 61 to 100, and from 121 to 138 inclusive, and from 145 to 150, amounting in the aggregate to about thirty-eight thousand two hundred and twenty dollars, which said suit is at issue, and is now pending and undisposed of in this court.

XI. And your orator further shows to the court that afterwards, and on or about the fifteenth day of February, A. D. 1865, the said defendant brought his certain other action in this court against your orator, wherein the said defendant is plaintiff, and your orator is de-

fendant, to recover the amount of a part of said coupons or interest warrants above described, that is to say, the interest warrants payable on the tenth day of February, in each of the years 1858, 1859, 1860, 1861, 1862, 1863, and 1864, on those of the said bonds numbered 141, 142, 143 and 144; and for the interest warrants payable on the tenth day of February, A. D. 1865, on those of the said bonds numbered from number 1 to number 9 inclusive, and from No. 16 to 47 inclusive, and from 61 to 94 inclusive, from 97 to 100 inclusive, and from 121 to 138 inclusive, and from 141 to 150 inclusive, amounting in the aggregate to about the sum of six thousand one hundred and
21 sixty dollars, which last-mentioned action is at issue, and is now pending and undisposed of and undetermined in this court.

XII. And your orator further shows to the court that afterwards, and on or about the twenty-third day of February, A. D. 1866, the said defendant brought his certain other action in this court against your orator, wherein the said defendant is plaintiff and your orator is defendant, to recover the amount of a part of said coupons or interest warrants above described, that is to say: the interest warrants payable on the tenth day of February, A. D. 1866, on those of said bonds numbered from No. 1 to 9, inclusive, and from No. 16 to 47, inclusive, and from No. 61 to 100, inclusive, and from No. 121 to 138, inclusive, and from 141 to 150, inclusive, and from No. 141 to 150, inclusive, amounting in the aggregate to five thousand two hundred and fifty dollars. That in the said last-mentioned action the said defendant has filed his declaration, and your orator has pleaded therein the non-joinder of the city of Beloit, as a defendant, to which plea the said defendant has filed a demurrer, and the said last-mentioned action now stands upon the said pleadings and is now pending undetermined and undisposed of in this court.

XIII. And your orator further shows to the court that it is informed and believes that the said defendant intends and threatens to bring other suits against your orator upon the interest warrants attached to the said bonds so held by him as aforesaid from time to time, as the same shall become payable, for the purpose of recovering the interest therein mentioned, and that in addition to the suits so brought against your orator by the said defendant, then and now pending in this court, seven other suits brought by other persons, each is brought upon and to recover the amount of coupons or interest warrants upon some of the said bonds so made and executed by the chairman of the board of supervisors and town clerk of said
22 town of Beloit, and so delivered by them to the said Racine, Janesville, and Mississippi Railroad Company as aforesaid.

XIV. And your orator further shows to the court that it is informed and believes, and upon information and belief alleges, that the said defendant, at the time he obtained, purchased, or otherwise acquired the said bonds and interest warrants so held and owned by him as aforesaid, and each and every them, he had notice and was informed and well knew that the said pretended act entitled an "Act to authorize the town of Beloit to aid in the construction of a

certain railroad from the city of Racine to the village of Beloit," approved February 10, 1853, only authorized the board of supervisors of the said town of Beloit to subscribe to the capital stock of a railroad company then authorized to construct a railroad from the city of Racine to the village of Beloit; that at the time the board of supervisors of the said town of Beloit made the subscription to the capital stock of the said Racine, Janesville, and Mississippi Railroad Company for one thousand shares thereof as hereinbefore stated, to wit, on the 21st day of May, A. D. 1853, and at the time the said bonds and interest warrants hereinbefore mentioned were actually made, executed, and delivered as hereinbefore set forth, the said Racine, Janesville, and Mississippi Railroad Company had not power and was not authorized to construct a railroad from the said city of Racine to the said village of Beloit; and that the said pretended act entitled "An act to authorize the town of Beloit to aid in the construction of a certain railroad from the city of Racine to the village of Beloit," approved February 10th, 1853, authorized the board of supervisors of the said town of Beloit, upon the conditions in the said pretended act set forth, to issue the bonds of the said town to pay the amount they were by said pretended act authorized to subscribe to the capital stock of a railroad company authorized to construct a railroad from the city of Racine to the village of Beloit, payable in twenty years from the date of such subscription,
23 or twenty years from the actual issue or delivery thereof, and that neither the said board of supervisors of the said town of Beloit, nor any other officer or agent of the said town of Beloit, had any power or authority whatever to issue the said bonds and interest warrants hereinbefore in this bill described, or any or either of them, or any bonds or interest warrants whatsoever, save that conferred by the said pretended act last above mentioned, or to make said bonds payable at any other or shorter time than twenty years from the time of making the said subscription to the capital stock of such railroad company; and that the said subscription for one thousand shares of the capital stock of the Racine, Janesville, and Mississippi Railroad Company, so made as aforesaid by the said board of supervisors of the said town of Beloit, was made on the said twenty-first day of May, A. D. 1853; and that the said bonds and coupons, so made and held by the said defendant as aforesaid, were, and each of them was, made and executed by the chairman of the board of supervisors and town clerk of the said town of Beloit, and delivered by them to the said Racine, Janesville, and Mississippi Railroad Company on or about the said 7th day of October, A. D. 1853, in payment for the said one thousand shares of the capital stock of the said company so subscribed for by the board of supervisors of the said town of Beloit, on the said twenty-first day of May, A. D. 1853; that by the said pretended act hereinbefore set forth at length to authorize the said town to subscribe for the stock of a railroad company, and to issue its bonds to pay therefor, the board of supervisors were authorized to pay for the stock they might so subscribe for in the bonds of the said town, payable in twenty years from the time of subscribing for such

stock, or in twenty years from the time of the actual making and delivery of the said bonds, with interest thereon at the rate of seven per cent. per annum, and neither the board of supervisors of
24 the said town, nor any officer or agent thereof, had any power or authority to make, execute, and deliver the bonds of the said town providing for the payment of, or bearing a greater rate of interest than, seven per cent., or for any longer time than from the date or actual delivery thereof; and that the said bonds and interest warrants so owned and held by the said defendant were, and each and every them was, made, executed, and delivered by the chairman of the board of supervisors and town clerk of the said town of Beloit, and delivered to the said Racine, Janesville, and Mississippi Railroad Company, in payment of the said one thousand shares of the capital stock of the said company so subscribed for by the board of supervisors of the said town of Beloit as aforesaid, on the said twenty-first day of May, A. D. 1853, and that each and every of the said bonds so owned and held by the said defendant, and the coupons or interest warrants thereto attached, reserved and provided for the payment of a greater rate of interest upon and for the forbearance of the principal sum mentioned in each of such bonds respectively, than seven per cent. per annum from the date thereof, and a greater rate of interest than seven per cent. per annum from the time of the actual making and delivery thereof, and for a greater rate of interest than at the rate of seven per cent. per annum for the time the said bonds respectively had to run from the date thereof, and that each and every of the said bonds, and the coupons or interest warrants thereto attached, stipulated and provided for the payment of and reserved interest upon and for the forbearance of the principal sum mentioned in such bond, at the rate of seven per cent. per annum from the 10th day of February, A. D. 1853, and for three months and eleven days longer time than the said bonds had to run from their date, and for seven months and twenty-seven days longer time than the said bonds had to run from the time when they were respectively made, executed, and delivered, and that the said bonds, and each of them, was executed and delivered to the said Racine, Janesville, and Mississippi Railroad Company upon the condition contained in the said contract be-
25 tween the board of supervisors of the said town of Beloit and the said Racine, Janesville, and Mississippi Railroad Company hereinbefore set forth, and dated the twenty-first day of May, A. D. 1853; that the said bonds should in no case be sold in market for less than ninety-five cents on the dollar without the consent of the board of supervisors of the said town of Beloit, or their agent, and that seventy-five thousand dollars in amount of the said bonds were sold by the said company without the consent of the said board of supervisors of the said town of Beloit or their agent, at less than ninety-five cents on the dollar, and at fifty cents on the dollar, and the balance thereof were sold by the said railroad company at prices greatly below ninety-five cents on the dollar without such consent as hereinbefore in that behalf stated, and that said bonds were made and executed and delivered to the said railroad company upon the further condition in the said

contract last above mentioned contained, that the same should be expended upon that portion of the railroad of the said Racine, Janesville, and Mississippi Railroad Company, commencing at Beloit and running east to Delevan; and that the said bonds were not expended upon the said portion of the said railroad, but were expended in the construction of that portion of said road extending from Burlington to Beloit, and for the payment of the general expenses and for the general purposes of the said company, as hereinbefore set forth.

XV. And your orator further shows to the court that he is informed and believes that the said defendant purchased and acquired the said bonds so held by him, and each and every of them, after one or more years' interest had become due and was payable, and that at the time he purchased each and every of the said bonds, and the interest warrants then thereto attached, each and every of the said bonds had attached thereto one or more interest warrants for the payment of interest on the principal sum of such bond, which had be-
26 come due and payable before then, and then was past due and dishonored; and that the said defendant purchased each and every of the said bonds and coupons so held and owned by him as aforesaid for a price greatly below the par value thereof; and that he is not a bona fide holder and owner of the said several bonds and interest warrants so held and owned by him for a valuable consideration paid therefor.

To the end, therefore, that the said defendant may, if he can, show why your orator should not have the relief hereby prayed, and may, upon his corporal oath, and according to the best and utmost of his knowledge, remembrance, information, and belief, full, true, perfect, and direct answer make to this your orator's bill of complaint. And that the said defendant, Samuel C. Morgan, may be decreed to deliver up to your orator the said bonds hereinbefore mentioned and described, and held and owned by him, and numbered respectively by the numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 141, 142, 143, 144, 145, 146, 147, 148, 149, and 150, together with the interest warrants issued therewith and appertaining thereto respectively, and which have not yet matured, and also the coupons or interest warrants for the interest payable on the tenth day of February, A. D. 1855, on those of the said bonds hereinbefore in this bill described, numbered respectively with the numbers, 1, 2, 3, 4, 5, 6, 7, 8, 9, 13, 68 to 72 inclusive; 79 to 100 inclusive; 121 to 125 inclusive; 136 to 143 inclusive, and 146 to 150 inclusive. Also the coupons or interest warrants for the interest which became payable on the tenth day of February, A. D. 1856, on those of the said bonds in this bill described, numbered respectively with the numbers 1 to 7 inclusive; 13, 44, 45, 47, 48, 49, 50, 63, 64, 66, 68, 69, 70, 72, 81 to 85 inclusive; 95, 135 to 143 inclusive; 146, 148, and 149 Also

the coupons or interest warrants for the interest which became payable on the 10th day of February, A. D. 1857, on those of
27 the said bonds hereinbefore described, numbered respectively with the numbers 1 to 20 inclusive; 31 to 35 inclusive; 38 to 45 inclusive; 61, 62, 72 to 100 inclusive; 121 to 150 inclusive; also the coupons or interest warrants for the interest payable on the 10th day of February, A. D. 1858, on those of the said bonds hereinbefore described, numbered respectively with the numbers 1 to 9 inclusive; 16 to 19 inclusive; 39, 40, 42, 48, 49, 61 to 65 inclusive; 68, 75 to 84 inclusive; 90, 91, 92, 97, 123 to 135 inclusive, and 141 to 148 inclusive; also the coupons or interest warrants for the interest payable on the 10th day of February, A. D. 1859, on those of the said bonds hereinbefore described and numbered respectively with the numbers 1 to 9 inclusive; 16 to 30 inclusive; 39 to 50 inclusive; 61 to 70 inclusive; 75 to 85 inclusive; 90, 91, 92, 97 to 100 inclusive; 121 to 138 inclusive; 141 to 150 inclusive; also the coupons or interest warrants for the interest payable on the 10th day of February, A. D. 1860, on those of the said bonds hereinbefore described, and numbered respectively with the numbers 1 to 9 inclusive; 16 to 30 inclusive; 39 to 50 inclusive; 61 to 70 inclusive; 75 to 85 inclusive; 90, 91, 92, 97 to 100 inclusive; 121 to 138 inclusive; 141 to 150 inclusive; also the coupons or interest warrants for the interest payable on the 10th day of February, A. D. 1861, on those of said bonds hereinbefore described, numbered respectively with the numbers 1 to 9 inclusive; 16 to 50 inclusive; 61 to 85 inclusive; 90, 91, 92, 95 to 100 inclusive; 121 to 138 inclusive; and 141 to 150 inclusive; also the coupons or interest warrants for the interest payable on the 10th day of February, A. D. 1862, on those of the said bonds hereinbefore described, numbered respectively with the numbers 1 to 9 inclusive; 16 to 47 inclusive; 61 to 85 inclusive; 90, 91, 92, 95 to 100 inclusive; 121 to 138 inclusive; 141 to 150 inclusive; also the coupons or interest warrants for the interest payable on the 10th day of February, A. D. 1863, on those of the said bonds hereinbefore described, numbered respectively with the numbers 1 to 9 inclusive; 16 to 47 inclusive; 61 to 95 inclusive; 97 to 100 in-
28 clusive; 121 to 138 inclusive; 141 to 150 inclusive; also the coupons or interest warrants for the interest payable on the 10th day of February, A. D. 1864, on those of the said bonds hereinbefore described, numbered respectively with the numbers 1 to 9 inclusive; 16 to 47 inclusive; 61 to 100 inclusive; 121 to 138 inclusive; 141 to 150 inclusive; also the coupons or interest warrants for the interest payable on the 10th day of February, A. D. 1865, on those of the said bonds hereinbefore described, numbered respectively with the numbers 1 to 9 inclusive; 16 to 47 inclusive; 61 to 94 inclusive; 97 to 100 inclusive; 121 to 138 inclusive, and 141 to 150 inclusive; also the coupons or interest warrants for the interest payable on the 10th day of February, A. D. 1866, on those of the said bonds hereinbefore described, numbered respectively with the numbers 1 to 9 inclusive; 16 to 47 inclusive; 61 to 100 inclusive; 121 to 138 inclusive, and 141 to 150 inclusive;

to be cancelled, and that the same, and each and every of them, may be adjudged, decreed, and declared to be illegal, usurious, invalid, and void; and that the said defendant, Samuel C. Morgan may be restrained by the decree and perpetual injunction of this court from proceeding in the said several actions at law so commenced by the said defendant, and now pending in this court against your orator upon the said coupons or interest warrants issued with, and appertaining to the said last-mentioned bonds respectively, and hereinbefore mentioned in that behalf, and from commencing any other action or proceeding at law against your orator upon the said last mentioned bonds, and the coupons issued therewith, and appertaining thereto, or any or either of them, and from otherwise enforcing against your orator the payment thereof, and may be restrained in like manner from negotiating, selling, or delivering the last-mentioned bonds, coupons, and interest warrants to any person or persons. And that in the meantime, and until the hearing of this cause, the said defendant, Samuel C. Morgan, and his attorneys and counsellors may be in like manner restrained by
29 the interlocutory order or injunction of this court. And that your orator may have such further relief in the premises as the nature of this case may require.

May it please the court to grant to your orator the writ of injunction of the United States of America, to be issued out of and under the seal of this court, to be directed to the said defendant, Samuel C. Morgan, to restain him, as herein above prayed; and also the writ of subpœna of the United States of America, to be issued out of and under the seal of this court, to be directed to the defendant, Samuel C. Morgan, thereby commanding the said defendant at a certain day therein to be specified, personally to be and appear before this court, and then and there to answer the premises, and to stand to, perform and abide such order and decree therein as this court shall make. And your orator will ever pray, &c.

CHARLES PECK,
PALMER & HOOKER,
Solicitors for Complainant.

H. L. PALMER, *of Counsel.*

UNITED STATES OF AMERICA, *District of Wisconsin, ss:*

Charles Peck, being duly sworn, deposes and says that he is the chairman of the supervisors of the town of Beloit, in the State of Wisconsin, and is familiar with the matters and things stated in the foregoing bill of complaint; that he has heard read the foregoing bill of complaint, and knows the contents thereof; that he knows of his own knowledge, and by examination of the public records, most of the material matters and things stated to be true; that the said bill is true of his own knowledge, except as to the matters and things therein stated on the information and belief of the complainant, and as to those matters and things he is informed and believes that they are true.

CHARLES PECK.

Subscribed and sworn to before me, this 19th day of April, A. D. 1866.

JAMES McFARLIN,
U. S. Com'r, Dist. of Wis.

30 *Schedule A.*

By special authority of the State legislature.

UNITED STATES OF AMERICA,
Town of Beloit, State of Wisconsin:

No. ——, $1,000.

The town of Beloit acknowledge themselves to owe the Racine, Janesville, and Mississippi Railroad Company the sum of one thousand dollars for ten shares of one hundred dollars each in the capital stock of said company, subscribed for and purchased of said company by said town, which sum said town promise to pay to said company, or to the holder hereof, at their office in the city of New York, on the tenth day of February, 1873, and also interest thereon at the rate of seven per centum per annum, payable annually on the tenth day of each February ensuing the date hereof, until the said principal sum shall be paid, on presentation of the annexed interest warrants at said office.

And it is further agreed that this obligation, and all rights and benefits arising therefrom, may be transferred by general or special indorsement, or by delivery, as if the same were a note of hand payable to bearer.

In testimony whereof the board of supervisors of said town have caused to be affixed its corporate seal and these presents to be subscribed by their chairman and attested by the clerk thereof, this 21st day of May, 1853.

JOHN EASTERLY, *Chairman.*

Attest:

M. V. PASCO, *Clerk.*

I, M. V. Pasco, clerk of the town of Beloit, do hereby certify that the foregoing obligation is issued in pursuance of a special act of the legislature of the State of Wisconsin, entitled "An act to authorize the town of Beloit to aid in the construction of a certain railroad from the city of Racine to the village of Beloit," approved February 10th, 1853, and sanctioned by a majority of the legal voters of said town at an election held for such purpose April 7th, 1853.

M. V. PASCO.

The town of Beloit will pay seventy dollars on the 10th day of February, 1873, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1872, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1871, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1870, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1869, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1868, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1867, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1866, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1865, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1864, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1863, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1862, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1861, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1860, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1859, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1858, at the office of the Racine, Janesville, and Mississippi

Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1857, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1855, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1854, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$70. W. W. DEXTER, *Treasurer.*

31 *Schedule B.*

By special authority of the State legislature.

UNITED STATES OF AMERICA,
Town of Beloit, State of Wisconsin:

No ——, $500.

The town of Beloit acknowledge themselves to owe the Racine, Janesville, and Mississippi Railroad Company the sum of five hundred dollars for five shares of one hundred dollars each in the capital stock of said company, subscribed for and purchased of said company by said town, which sum said town promise to pay to said company, or to the holder hereof, at their office in the city of New York, on the tenth day of February, 1873, and also interest thereon at the rate of seven per centum per annum, payable annually on the tenth day of each February ensuing the date hereof, until the said principal sum shall be paid on presentation of the annexed interest warrants at said office.

And it is further agreed that this obligation, and all rights and benefits arising therefrom, may be transferred by general or special indorsement, or by delivery, as if the same were a note of hand payable to bearer.

In testimony whereof the board of supervisors of said town have caused to be affixed its corporate seal and these presents to be subscribed by their chairman and attested by the clerk thereof, this 21st day of May, 1853.

JOHN EASTERLY,
Chairman.

Attest:

M. V. PASCO, *Clerk.*

I, M. V. Pasco, clerk of the town of Beloit, do hereby certify that the foregoing obligation is issued in pursuance of a special act of the legislature of the State of Wisconsin, entitled "An act to authorize the town of Beloit to aid in the construction of a certain railroad from the city of Racine to the village of Beloit," approved February 10th, 1853, and sanctioned by a majority of the legal voters of said town at an election held for such purpose April 7th, 1853.

M. V. PASCO.

The town of Beloit will pay thirty-five dollars on the 10th day of February, 1873, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.

$35. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay thirty-five dollars on the 10th day of February, 1872, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.

$35. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay thirty-five dollars on the 10th day of February, 1871, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.

$35. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay thirty-five dollars on the 10th day of February, 1870, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.

$35. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay thirty-five dollars on the 10th day of February, 1869, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$35. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay thirty-five dollars on the 10th day of February, 1868, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$35. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay thirty-five dollars on the 10th day of February, 1867, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$35. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay thirty-five dollars on the 10th day of February, 1866, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$35. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay thirty-five dollars on the 10th day of February, 1865, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$35. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay thirty-five dollars on the 10th day of February, 1864, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$35. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay thirty-five dollars on the 10th day of February, 1863, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$35. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay thirty-five dollars on the 10th day of February, 1862, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$35. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay thirty-five dollars on the 10th day of February, 1861, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$35. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay thirty-five dollars on the 10th day of February, 1860, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$35. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay thirty-five dollars on the 10th day of February, 1859, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$35. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay thirty-five dollars on the 10th day of February, 1858, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$35. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay thirty-five dollars on the 10th day of February, 1857, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$35. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay thirty-five dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.
$35. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay thirty-five dollars on the 10th day of February, 1855, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.

$35. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay thirty-five dollars on the 10th day of February, 1854, at the office of the Racine, Janesville, and Mississippi Railroad Co., in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, numbered , issued to said company. By order of the board of supervisors.

$35. W. W. DEXTER, *Treasurer.*

32 Whereupon a subpœna issued in the words and figures following, to wit:

UNITED STATES OF AMERICA, *District of Wisconsin, ss:*

The President of the United States of America to Samuel C. Morgan, greeting:

You are hereby commanded that you personally appear before the judges of the circuit court of the United States of America for the district of Wisconsin, in our court of chancery, in and for the district aforesaid, on the first Monday of June next ensuing, at Milwaukee, to answer to a bill of complaint exhibited against you in our said court by the town of Beloit. And to do further, and receive what our said court shall have considered in that behalf, and this you are not to omit under the penalty which may ensue.

This process of subpœna is directed to the marshal of this district, who is hereby commanded to serve the same upon the said Samuel C. Morgan if to be found in his district, and due return thereof make.

Witness the Honorable Salmon P. Chase, Chief Justice of the Supreme Court of the United States, at the city of Milwaukee, in the said district, this ninteenth day of April, in the year of our Lord one thousand eight hundred and sixty-six, and of our independence the ninetieth.

[SEAL.] A. SCOTT SLOAN, *Clerk.*
By JAMES McFARLIN, *Deputy.*

PALMER & HOOKER, *Solicitors.*

It is ordered by our said court that the said Samuel C. Morgan, the defendant aforesaid, do enter his appearance in this suit, in the clerk's office, on or before the day and time at which this subpœna is returnable as aforesaid, otherwise the bill filed may be taken as confessed. And it is further ordered that he show cause by Saturday, the 21st day of April, at ten o'clock in the forenoon, why an injunction should not be issued according to the prayer of the bill on file.

And on motion of the complainant, it is ordered by the court that the subpœna be served on Matt. H. Carpenter, attorney for the defendant, and also that the defendant show cause by Saturday, the 21st instant, why an injunction should not issue in accordance with the prayer of the bill.

APRIL 27, 1866.

Subpœna returned indorsed: "I hereby acknowledge service of the within subpœna this 19th day of April, 1866.

"M. H. CARPENTER.

"Fees, $2 00."

MAY 26, 1866.

This day came the defendant, by his counsel, and filed his answer in the words and figures following, to wit:

Circuit court of the United States for the district of Wisconsin, in equity.

THE TOWN OF BELOIT }
vs. }
SAMUEL C. MORGAN. }

The separate answer of Samuel C. Morgan, defendant to the bill of complaint of the town of Beloit, complainant.

This defendant, saving and reserving unto himself all, and all manner of benefit and advantage of exception to the many uncertainties and insufficiencies of the said bill of complaint, for answer thereto, or unto so much and such parts thereof as he is advised is material and necessary to be answered unto, answering, says:

That the legislature of Wisconsin, as this defendant is informed and believes, and thereupon states, did, in A. D. 1833, pass an act entitled "An act to authorize the town of Beloit to aid in the construction of a certain railroad from the city of Racine to the village of Beloit," which was approved February 10th, A. D. 1853, by the governor of said State, being chapter 12 of the private and local laws of said State, passed in A. D. 1853, which is copied in said bill of complaint; and that the same was a local act, and not a general law, and was in force from its said approval, without any other publication whatever; and that said act was constitutionally enacted and passed by the said legislature in every respect.

II. This defendant, further answering, says, on information and belief, that the board of supervisors of said town of Beloit, on the 28th day of March, A. D. 1853, called all election according to the provisions of said act, to be held in the village of Beloit on the 7th day of April, A. D. 1853, and caused one week's previous notice of said election to be published and given in the Beloit Journal, a public newspaper printed in the said village of Beloit; and the said act was printed and published in connection with said notice as the said act

provided; that said election so called and notified was duly held, and was conducted and canvassed according to the provisions of said act, and a majority of all the votes cast at said election were "For the railroad" and in favor of issuing said bonds.

This defendant, further answering on information and belief, says that after the passage and approval of said act, the said board of supervisors duly subscribed for said town, and in its name and on its behalf, to the capital stock of said Racine, Janesville, and Mississippi Railroad Company, to the amount of one hundred thousand dollars, and paid the said subscription in and with the bonds of said town to that amount, copies of which, two classes, bonds, one of a thousand dollars and one of five hundred dollars, except the numbers thereof, are attached to the said bill of complaint in this
35 cause, and that copies of coupons, except numbers, attached to said bonds, respectively, are also attached to the said copies of said bonds attached to said bill of complaint, except that the coupon attached to each of said bonds maturing February 10th, 1854, was for a less amount than one year's interest, and was for just the amount of interest which would mature on said bonds respectively from their respective dates to said 10th day of February, A. D. 1854; but this defendant is not advised, except by the said bill of complaint, and has no information sufficient to form a belief when, or in what precise manner, or under what precise arrangement or contract between said town and said company said subscription and payment were made, nor whether, in case any such contract as stated in said bill of complaint was in fact made, the same was performed or violated by said company, and this defendant therefore cannot either admit or deny the statement in said bill of complaint in that behalf, but leaves the said complainant to make such proof thereof as it may be able.

III. This defendant, further answering, says that he has not now, and never had, any actual knowledge of the precise powers of said company under the act creating said company, and the acts amendatory thereof; but is advised and informed and verily believes, and thereupon says, that said company had, by its original charter, or otherwise, full and competent right, power, and authority to build, construct, and operate a railroad from the city of Racine to the village of Beloit, before the 10th day of February, A. D. 1853, and at the several times thereafter when said election was called, held, and canvassed, and the said town subscribed, and paid for said subscription to the capital stock of said company as hereinbefore stated; and that said town had full right and authority to subscribe as aforesaid, and to issue said bonds in payment as aforesaid; and that said bonds were issued and delivered by said town to said company legally and regularly in every respect; and that said bonds and all unpaid coupons thereon are now legal and valid evidences of indebtedness against said town, at law and in equity.

This defendant, further answering on information and belief, says that the coupon which was originally printed upon said bonds
36 and attached thereto, maturing February 10th, 1854, was cut

off from each and every of said bonds and cancelled, before the said bonds were delivered by said town to said company in payment of said subscription as herein before stated; and that said town never paid, and has never been called on to pay, any interest on any of said bonds, except from and after February 10, 1854.

This defendant, further answering, says that he purchased all the said bonds and coupons now owned by him, in good faith, bona fide, and for value in due course of business, in the full belief that said bonds and said coupons were each and every of them valid and negotiable instruments binding upon said town, at law and in equity, and without any knowledge, information, or notice or belief whatever, of any of the matters and things set up and alleged in said bill of complaint in defence against the same. And this defendant, further answering, positively denies that when he purchased the said bonds and coupons now owned by him, that he knew, or believed, or had been informed, or had any reason to believe or suspect, or did believe or suspect, that the said pretended act, entitled "An act to authorize the town of Beloit to aid in the construction of a certain railroad from the city of Racine to the village of Beloit," approved February 10, A. D. 1853, only authorized the board of supervisors of said town of Beloit to subscribe to the capital stock of a railroad company then authorized to construct a railroad from the city of Racine to the village of Beloit; and answering, says he had no actual knowledge in regard to the act whatever; but that he was informed by the bonds themselves, and by the certificate of the town clerk thereto attached, that said bonds had been issued in pursuance of an act of the legislature in that behalf.

This defendant, further answering, says that when he purchased said bonds as aforesaid, he had no knowledge, notice, information, or belief, or suspicion that at the time said board of supervisors of said town made the subscription to the capital stock of said company as aforesaid, or that at the time the said bonds and interest warrants were actually made, executed, and delivered as herein before set forth, the said company had not power or was not authorized
37 to construct a railroad from said city of Racine to the said village of Beloit; or that the said act, entitled as aforesaid, authorized the said board of supervisors of the said town of Beloit, upon the conditions in the said act set forth, to issue the bonds of said town to pay the amount they were by said authorized to subscribe to the capital stock of a railroad company authorized to construct a railroad from the city of Racine to the village of Beloit, payable in twenty years from the date of such subscription, or twenty years from the actual issue or delivery thereof; or that said board of supervisors of said town, or any other officer of said town, had no authority or power to issue said bonds or interest warrants thereto attached, save that conferred by said act; or to make said bonds payable at any other or shorter time than twenty years from the time of making the said subscription as aforesaid; or that the said subscription so made as aforesaid was made on the 21st day of May, A. D. 1853, or that said bonds and coupons, so made and held by this de-

fendant as aforesaid, were, or that either of them was, made or executed by the chairman of the said board of supervisors and town clerk of said town, or delivered by them to said company on or about the 7th day of October, A. D. 1853, in payment for said stock, so subscribed for as aforesaid on the 21st day of May, A. D. 1853; or that by said act the said board of supervisors were authorized to pay for the stock they might so subscribe for in the bonds of the said town, payable in twenty years from the time of subscribing for said stock, or in twenty years from the actual making and delivery of said bonds, with interest thereon at the rate of seven per cent. per annum; or that neither the board of supervisors of said town, or any officer or agent thereof, had any authority or power to make, execute, or deliver the said bonds of said town for the payment of, or bearing a greater interest than, seven per cent., for any longer time than from the date or actual delivery thereof; or that said bonds and interest warrants, so owned and held by this defendant, were, or that either of them was, made, executed, or delivered by the chairman of said board and town clerk of said town, or delivered to said company in payment of the said one thousand shares of the capital stock
38 of said company so subscribed for by the said board of supervisors as aforesaid; or that each and every or either or any of said bonds so owned and held by this defendant or the coupons or interest warrants thereto attached reserved or provided for the payment of a greater rate of interest upon and for the forbearance of the principal sum mentioned in each or any of said bonds respectively than seven per cent. per annum from the date thereof, or a greater rate of interest than seven per centum per annum from the time of the actual making and delivery thereof, or for a greater rate of interest than at the rate of seven per cent. per annum for the time the said bonds respectively had to run from the date thereof: or that each and every or either or any of said bonds, or the coupons thereto attached, stipulated or provided for the payment of or reserved interest upon or for the forbearance of the principal sum mentioned in such bond at the rate of seven per cent. per annum from the 10th day of February, A. D. 1853, or for three months and eleven days, or any other time, longer time, than said bonds had to run from their date; or for seven months and twenty-seven days, or any other time, longer time, than said bonds had to run from the time when they were respectively made, executed, or delivered; or that said bonds or any of them were or was executed or delivered to said company upon the conditions contained in the said contract as stated in said bill of complaint in that behalf, that said bonds should in no case be sold for less than ninety-five cents on the dollar without the consent of said board or their agent; or that seventy-five thousand dollars in amount of the said bonds were sold by the said company, without the consent of said board or their agent, at less than ninety-five cents on the dollar, or at fifty cents on the dollar, or that the balance thereof were sold by the said railroad company at prices greatly below ninety-five cents on the dollar, without such consent; or that said bonds were made, executed, or delivered to said company upon the further con-

dition in the said pretended contract last above mentioned contained, that the same should be expended upon that portion of the railroad of said company commencing at Beloit and running east to Delevan; or that said bonds were not so expended, but were expended
39 in the construction of that portion of said road extending from Burlington to Beloit or for the payment of the general expenses or for the general purposes of said company, as stated in said bill; and this defendant says that the statements in said bill of complaint in that behalf are untrue, and he expressly and positively denies the same.

This defendant, further answering, says that when he purchased the said bonds and coupons held and owned by him he was a citizen of the State of Connecticut and had never been a citizen or resident of the State of Wisconsin or conversant with its laws; that said bonds when offered to be negotiated and sold to this defendant had no coupons attached maturing February 10, 1854; that the same, if it has ever existed, had been cut therefrom prior to that time; that said bonds were regular on their face, calling for seven per cent. interest from the date of said bonds, and said bonds had thereto attached, under the seal of said town, a certificate of the town clerk of said town as follows:

"I, M. V. Pasco, clerk of the town of Beloit, do hereby certify that the foregoing obligation is issued in pursuance of a special act of the legislature of the State of Wisconsin, entitled 'An act to authorize the town of Beloit to aid in the construction of a certain railroad from the city of Racine to the village of Beloit.' Approved February 10, 1853, and sanctioned by a majority of the legal voters of said town at an election held for that purpose April 7, 1853.

"M. V. PASCO."

That this defendant had no actual knowledge of the terms or conditions of said act, and had no notice or knowledge of any contract or agreement between said town and said company in regard to said bonds as stated in said bill of complaint, or otherwise; that Jackson J. Bushnell, of Beloit, who was well known to this defendant as a man of integrity and character, negotiated said bonds to this defendant, and assured this defendant that said bonds were valid and legal at law and in equity, and that the people of Beloit were an honest, industrious people, and that said bonds would be fully paid; and the said representations of the said Bushnell and the face of said bonds and the certificate of said town clerk attached thereto, were all the representations made to this defendant prior to his pur-
40 chase of said bonds, and were fully believed and relied upon by this defendant at the time of said purchase by him. and the same were purchased by this defendant for value, without any suspicion or reason to suspect that there was any irregularity or illegality in the issuance of said bonds or any defence thereto at law or in equity; and this defendant is a bona fide holder of the bonds so purchased by him, and entitled to be protected in this court as such.

This defendant, further answering on information and belief, says

that the said bonds to the amount of one hundred thousand dollars, mentioned in said bill of complaint, were all issued and delivered by said town of Beloit to the said railroad company in A. D. 1853, and were the only bonds ever issued by said town of Beloit for or in payment of subscription to railroad stock, and that long after the said bonds had been issued by said town, and after the same were in circulation in the stock markets of the country, passing from hand to hand as negotiable paper, the legislature of Wisconsin passed an act entitled "An act to incorporate the city of Beloit," approved March 31, A. D. 1856, being chapter 452 of the private and local laws of said State passed and enacted in A. D. 1856, which said last-named act, among other things, provided that all principal and interest upon all bonds which had theretofore been issued by the said town of Beloit for railroad stock or other purposes should be paid when the same or any portion of the same should fall due by the city and town of Beloit in the same proportion as if said town and city were not dissolved. And that afterwards the said legislature passed an act entitled "An act to amend an act entitled an act to incorporate the city of Beloit, approved March 31, 1856," approved March 3, A. D. 1857, by which last-named act it was, among other things, provided that all principal and interest upon all bonds which had theretofore been issued by the said town of Beloit for railroad stock or other purposes should be paid when the same or any portion of the same should fall due, by the city and town of Beloit in the same proportion as if said town and city were not dissolved, (which said acts this defendant prays leave to refer to as evidence in support
41 of this answer;) and that it was the intention of the legislature in and by each of said acts to provide that the said bonds which had before then been been issued and delivered by said town of Beloit in payment for said subscription to the capital stock of the Racine, Janesville, and Mississippi Railroad Company, as hereinbefore stated, and all interest thereon, should be paid; and this defendant submits that said acts passed in A. D. 1856 and A. D. 1857, were, and are and were intended by said legislature to be a complete ratification of the validity of all of said bonds, and that said acts have, and were intended to have, the effect to cure any irregularity in the issuance of the same, or any want of authority to issue and deliver the same, as the same were issued and delivered, to the said Racine, Janesville, and Mississippi Railroad Company as hereinbefore stated.

This defendant, further answering on information and belief, says that for a long time after the said bonds were issued and delivered, as hereinbefore stated, and had passed and were passing as negotiable paper in the stock markets of the country, the board of supervisors of the said town annually appointed a commissioner or agent under said act, approved February 10, 1853, to vote for directors of said company; and that after said subscription to said capital stock, certain persons proposed to said town, in town meeting, to take its said railroad stock, so subscribed for as hereinbefore stated, and paid for in the bonds aforesaid from said town at par; and that said town, in regular town meeting, refused to part with, or sell, or dispose of,

dition in the said pretended contract last above mentioned contained, that the same should be expended upon that portion of the railroad of said company commencing at Beloit and running east to Delevan; or that said bonds were not so expended, but were expended
39 in the construction of that portion of said road extending from Burlington to Beloit or for the payment of the general expenses or for the general purposes of said company, as stated in said bill; and this defendant says that the statements in said bill of complaint in that behalf are untrue, and he expressly and positively denies the same.

This defendant, further answering, says that when he purchased the said bonds and coupons held and owned by him he was a citizen of the State of Connecticut and had never been a citizen or resident of the State of Wisconsin or conversant with its laws; that said bonds when offered to be negotiated and sold to this defendant had no coupons attached maturing February 10, 1854; that the same, if it has ever existed, had been cut therefrom prior to that time; that said bonds were regular on their face, calling for seven per cent. interest from the date of said bonds, and said bonds had thereto attached, under the seal of said town, a certificate of the town clerk of said town as follows:

"I, M. V. Pasco, clerk of the town of Beloit, do hereby certify that the foregoing obligation is issued in pursuance of a special act of the legislature of the State of Wisconsin, entitled 'An act to authorize the town of Beloit to aid in the construction of a certain railroad from the city of Racine to the village of Beloit.' Approved February 10, 1853, and sanctioned by a majority of the legal voters of said town at an election held for that purpose April 7, 1853.

"M. V. PASCO."

That this defendant had no actual knowledge of the terms or conditions of said act, and had no notice or knowledge of any contract or agreement between said town and said company in regard to said bonds as stated in said bill of complaint, or otherwise; that Jackson J. Bushnell, of Beloit, who was well known to this defendant as a man of integrity and character, negotiated said bonds to this defendant, and assured this defendant that said bonds were valid and legal at law and in equity, and that the people of Beloit were an honest, industrious people, and that said bonds would be fully paid; and the said representations of the said Bushnell and the face of said bonds and the certificate of said town clerk attached thereto, were all the representations made to this defendant prior to his pur-
40 chase of said bonds, and were fully believed and relied upon by this defendant at the time of said purchase by him, and the same were purchased by this defendant for value, without any suspicion or reason to suspect that there was any irregularity or illegality in the issuance of said bonds or any defence thereto at law or in equity; and this defendant is a bona fide holder of the bonds so purchased by him, and entitled to be protected in this court as such.

This defendant, further answering on information and belief, says

that the said bonds to the amount of one hundred thousand dollars, mentioned in said bill of complaint, were all issued and delivered by said town of Beloit to the said railroad company in A. D. 1853, and were the only bonds ever issued by said town of Beloit for or in payment of subscription to railroad stock, and that long after the said bonds had been issued by said town, and after the same were in circulation in the stock markets of the country, passing from hand to hand as negotiable paper, the legislature of Wisconsin passed an act entitled "An act to incorporate the city of Beloit," approved March 31, A. D. 1856, being chapter 452 of the private and local laws of said State passed and enacted in A. D. 1856, which said last-named act, among other things, provided that all principal and interest upon all bonds which had theretofore been issued by the said town of Beloit for railroad stock or other purposes should be paid when the same or any portion of the same should fall due by the city and town of Beloit in the same proportion as if said town and city were not dissolved. And that afterwards the said legislature passed an act entitled "An act to amend an act entitled an act to incorporate the city of Beloit, approved March 31, 1856," approved March 3, A. D. 1857, by which last-named act it was, among other things, provided that all principal and interest upon all bonds which had theretofore been issued by the said town of Beloit for railroad stock or other purposes should be paid when the same or any portion of the same should fall due, by the city and town of Beloit in the same proportion as if said town and city were not dissolved, (which said acts this defendant prays leave to refer to as evidence in support
41 of this answer;) and that it was the intention of the legislature in and by each of said acts to provide that the said bonds which had before then been issued and delivered by said town of Beloit in payment for said subscription to the capital stock of the Racine, Janesville, and Mississippi Railroad Company, as hereinbefore stated, and all interest thereon, should be paid; and this defendant submits that said acts passed in A. D. 1856 and A. D. 1857, were, and are and were intended by said legislature to be a complete ratification of the validity of all of said bonds, and that said acts have, and were intended to have, the effect to cure any irregularity in the issuance of the same, or any want of authority to issue and deliver the same, as the same were issued and delivered, to the said Racine, Janesville, and Mississippi Railroad Company as hereinbefore stated.

This defendant, further answering on information and belief, says that for a long time after the said bonds were issued and delivered, as hereinbefore stated, and had passed and were passing as negotiable paper in the stock markets of the country, the board of supervisors of the said town annually appointed a commissioner or agent under said act, approved February 10, 1853, to vote for directors of said company; and that after said subscription to said capital stock, certain persons proposed to said town, in town meeting, to take its said railroad stock, so subscribed for as hereinbefore stated, and paid for in the bonds aforesaid from said town at par; and that said town, in regular town meeting, refused to part with, or sell, or dispose of,

the same; and that said town never intended to, or pretended it had a right to, resist the payment of said bonds, until after financial reverses in the affairs of said railroad company rendered said stock nearly or quite worthless.

This defendant, further answering, says, on information and belief, that heretofore, to wit, on the 22d day of December, A. D. 1860, this defendant commenced an action at law on the law side of the district court of the United States for the district of Wisconsin against the said the town of Beloit, as defendant, to recover the amount
42 of certain coupons attached to certain of the bonds issued by said town, as hereinbefore stated, under the said act approved February 10, 1853, and that process was duly served in said cause on said town, and said town duly appeared in said cause, by attorney, and filed a plea therein; and that such proceedings were thereupon had that this defendant in said action, by the consideration and judgment of said district court, on the 9th day of January, A. D. 1861, recovered a judgment against said town for the sum of fifteen hundred and forty dollars damages, ($1,540,) and twenty-five dollars and seventy-four cents ($25 74) costs of said suit, which judgment still remains in full force, as appears by the record thereof now remaining in this honorable court, a copy of which record is hereto attached and marked Exhibit No. 1, and which this defendant prays may be taken and considered as part of this answer; and this defendant will insist on the same by way estoppel as conclusive, between said complainant and this defendant, of the validity of said bonds and the said coupons, and this defendant prays the same benefit of the same as though the same were duly pleaded to said bill of complaint.

Without this, that any other matter or thing in said bill of complaint contained, and not herein and hereby confessed and avoided, admitted or denied, is true to the knowledge or belief of this defendant; and this defendant prays to be hence dismissed with his costs most wrongfully sustained.

SAMUEL C. MORGAN.
By MATT. H. CARPENTER,
His Solicitor.
MATT. H. CARPENTER,
Of Counsel for Defendant.

UNITED STATES OF AMERICA, *District of Connecticut, ss:*

Samuel C. Morgan being duly sworn, on oath says that he is the defendant in the foregoing answer; that he has read the same, and knows the contents thereof; and that the same is true of his
43 own knowledge, except as to the matters and things therein stated on information and belief, and that as to those matters he believes it to be true.

SAM'L C. MORGAN.

Subscribed and sworn to before me, this 17th day of May, A. D. 1866.

JOHN D. PARK,
A Judge of the Superior Court of the State of Connecticut.

STATE OF CONNECTICUT, *County of New London, ss:*

COUNTY CLERK'S OFFICE.

I, Wm. L. Brewer, clerk of the superior court of the State of Connecticut, within and for New London county, and keeper of the seal thereof, hereby certify that the Honorable John D. Park, was, on the 17th day of May, 1866, and now is, a judge of said court, duly appointed, commissioned, and sworn, having full power and authority, by the laws of this State, to take the acknowledgement of deeds and other instruments, and to certify the same; also to administer oaths, and to give certificates thereof; that full faith and credit may and ought to be given to his official acts and attestations; that I am acquainted with his handwriting, and that the signature to the instrument hereto annexed, purporting to be his, is his genuine official signature; and that said instrument is executed, acknowledged, and duly authenticated according to the laws of this State.

In testimony whereof I hereunto set my hand and affix the seal of said court, at the city of Norwich, in said county and State, on this 19th day of May, A. D. 1866.

[SEAL.] WM. L. BREWER, *Clerk.*

[5 cent rev. stamp, cancelled.]

44 *Exhibit No.* 1.

UNITED STATES OF AMERICA, *District of Wisconsin, ss:*

At a stated term of the district court of the United States of America for the district of Wisconsin, begun and held according to law, on the first Monday of January, A. D. 1861, at the city of Milwaukee in said district of Wisconsin, present and presiding the Hon. Andrew G. Miller, district judge. On the third day of the term, to wit. on the ninth day of January, A. D. 1861, the following proceedings were had, to wit:

SAMUEL C. MORGAN
vs.
THE TOWN OF BELOIT. } Assumpsit.

Be it remembered that heretofore, to wit, on the twenty-second day of December, A. D. 1860, the above-named plaintiff, by Messrs. Carpenter & Gridley, filed in the office of the clerk of the district court of the United States for the district of Wisconsin his præcipe for a summons, in the words and figures following, to wit:

DISTRICT OF WISCONSIN, *ss:*

District court of the United States for the district of Wisconsin.

SAMUEL C. MORGAN
vs.
THE TOWN OF BELOIT.

To the clerk of said court:

Issue summons, assumpsit, in above-entitled action, returnable at the January term, 1861, in asumpsit damages two thousand dollars.

CARPENTER & GRIDLEY,
Atty's for Pl'ff.

Whereupon a summons issued in the words and figures following, to wit:

THE UNITED STATES OF AMERICA, *ss:*

The President of the United States of America, to the marshal of the district of Wisconsin, greeting:

You are hereby commanded to summon the town of Beloit to appear before the district court of the United States of America for the district of Wisconsin aforesaid, at Milwaukee, on the first Monday of January ensuing, then and there to answer unto Samuel C. Morgan in a plea of trespass on the case on promises, to his damage two thousand dollars, which shall then and there be made to appear. And of this writ made due return.

45

Witness the Hon. Andrew G. Miller, judge of the said district court of the United States, at the city of Milwaukee, in the said district of Wisconsin, this twenty-second day of December, in the year of our Lord one thousand eight hundred and sixty, and of the independence of the United States the eighty-fifth.

[L. S.] J. MILLER, *Clerk.*
CARPENTER & GRIDLEY, *Attorneys.*

And afterwards, on the 27th day of December, 1860, came the marshal and made return of the summons, indorsed thereon as follows, to wit: "Served on the within named town of Beloit, by showing Perry Bostwick, the clerk of said town, this summons, and delivering him a copy thereof, this 26th day of December, 1860.

"J. H. LEWIS, *Marshal.*
"By A. ROGERS, *Deputy.*

"Fees, $7 24."

And afterwards, on the same day, came the plaintiff by his attorneys and filed his declaration in the words and figures following, to-wit:

District court of the United States for the district of Wisconsin, of the January term, A. D. 1861.

DISTRICT OF WISCONSIN, *ss:*

Samuel C. Morgan, who is a citizen of the State of Connecticut, plaintiff in this suit, by Carpenter and Gridley, his attorneys, com-

plains of the town of Beloit, a corporation created and existing by and under the laws of the State of Wisconsin, defendant in this suit, of a plea of trespass on the case upon promises. For that—whereas the said defendant, heretofore, to wit, on the 21st day of May, 1853, by authority granted to it by the legislature of the State of Wisconsin, by chapter twelve of the private laws of said State, A. D. 1853, approved February 10, 1853, and entitled "An act to authorize the town of Beloit to aid in the construction of a certain railroad from the city of Racine to the village of Beloit," did make, issue and deliver to the Racine, Janesville, and Mississippi Railroad Company the bonds of the said defendant to the amount in all of one hundred thousand dollars, partly in sums of one thousand dollars each, and partly in sums of five hundred dollars each, in and by which said bonds the said defendant agreed and promised to pay the said railroad company, or to the holder, meaning bearer, of said bonds respectively the said several sums of one thousand and five hundred dollars mentioned in said bonds respectively, together with interest thereon at the rate of 7 per cent., payably annually, on the 10th day of February in each year thereafter, until February 10th, A. D. 1873, when the principal sum mentioned in said bonds respectively became due and payable, said interest to be paid on presentation of certain coupons or interest warrants to said bonds respectively attached, which coupons or interest warrants were an agreement on the part of the defendant to pay the several payments of interest on said bond to become due by its terms, as the same should become due,

46 there being one coupon for each payment of interest on said bond, and that said bonds were of the tenor following, except numbers, amounts which were different in different bonds, that is to say:

By special authority of the State legislature, United States of America, town of Beloit, State of Wisconsin:

No. 96. $500.

The town of Beloit acknowledge themselves to owe the Racine, Janesville, and Mississippi Railroad Company the sum of five hundred dollars for five shares of one hundred dollars each in the capital stock of said company, subscribed for and purchased of said company by said town, which sum said town promise to pay to said company, or to the holder hereof, at their office in the city of New York, on the 10th day of February, 1873, and also interest thereon at the rate of seven per centum per annum, payable annually on the tenth day of each February, ensuing the date hereof, until the said principal sum shall be paid on presentation of the annexed interest warrant at said office. And it is further agreed that this obligation and all rights and benefits arising therefrom may be transfered by general or special indorsement or by delivery, as if the same were a note of hand payable to bearer.

In testimony whereof the board of supervisors of said town have caused to be affixed its corporate seal and these presents to be sub-

cribed by their chairman and attested by the clerk thereof, this 21st day of May, 1853.

[L. S.] JOHN EASTERLY, *Chairman.*

Attest: M. V. PASCO, *Clerk.*

I, M. V. Pasco, clerk of the town of Beloit, do hereby certify that the following obligation is issued in pursuance of a special act of the legislature of the State of Wisconsin, entitled "An act to authorize the town of Beloit to aid in the construction of a certain railroad from the city of Racine to the village of Beloit," approved February 10th, 1853, and sanctioned by a majority of the legal voters of said town at an election held for such purpose, April 7, 1853.

M. V. PASCO.

That the said plaintiff is the holder and owner of coupons which were attached to said bonds, of which the following are copies, and which have been duly presented at the proper time for payment at the office of said railroad company, being the Racine and Mississippi Railroad Company, in the city and State of New York, and payment thereof refused, that is to say:

The town of Beloit, will pay seventy dollars on the 10th day of February, 1855, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 31, issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 31, issued to said company, by order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

47 The town of Beloit will pay seventy dollars on the 10th day of February, 1855, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town number 32, issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 32, issued to said company. By order of the board of supervisors.

$70 W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 33, issued to said company. By order of the board of supervisors.
$70 W. W. DEXTER, *Treasurer*.

The town of Beloit will pay seventy dollars on the 10th day of February, 1855, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 34, issued to said company. By order of the board of supervisors.
$70 W. W. DEXTER, *Treasurer*.

The town of Beloit will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 34, issued to said company. By order of the board of supervisors.
$70 W. W. DEXTER, *Treasurer*.

The town of Beloit will pay seventy dollars on the 10th day of February, 1855, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 40, issued to said company. By order of the board of supervisors.
$70 W. W. DEXTER, *Treasurer*.

The town of Beloit will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city New York, on presentation hereof, being the interest due that day on the bond of said town, number 40, issued to said company. By order of the board of supervisors.
$70 W. W. DEXTER, *Treasurer*.

The town of Beloit will pay seventy dollars on the 10th day of February, 1855, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being interest due on that day on the bond of said town, number 41, issued to said town. By order of the board of supervisors.
$70 W. W. DEXTER, *Treasurer*.

The town of Beloit will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 41, issued to said company. By order of the board of supervisors.
$70 W. W. DEXTER, *Treasurer*.

48 The town of Beloit will pay seventy dollars on the 10th day of February, 1855, at the office of the Racine, Janesville, and

Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 35, issued to said company. By order of the board of supervisors.

$70 W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 35, issued to said company. By order of the board of supervisors.

$70 W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1855, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 36, issued to said company. By order of the board of supervisors.

$70 W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 36, issued to said company. By order of the board of supervisors.

$70 W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1855, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 37, issued to said company. By order of the board of supervisors.

$70 W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 37, issued to said company. By order of the board of supervisors.

$70 W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1855, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 38, issued to said company. By order of the board of supervisors.

$70 W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi

Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 38, issued to said company. By order of the board of supervisors.

$70 W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1855, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation
49 hereof, being the interest due that day on the bond of said town, number 39, issued to said company. By order of the board of supervisors.

$70 W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 39, issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

And that the plaintiff is now the holder, owner, and bearer of each and every of said coupons, and that the same are due, and the said defendant refuses to pay the same, though often requested.

And also:

For that, whereas the said defendant, on the 21st day of May, in the year one thousand eight hundred and fifty-three, at the city of Beloit, in said district, was indebted to the said plaintiff in the sum of nineteen hundred dollars, lawful money of the United States of America, for the work and labor, care and diligence of said plaintiff by the said plaintiff, before that time done, performed, and bestowed in and about the business of the said defendant and for the said defendant, and at the special instance and request of the said defendant, and also for divers materials and other necessary things by the said plaintiff found, provided, used and applied in and about that work, at the special instance and request of the said defendant, and being so indebted to the said plaintiff, the said defendant in consideration thereof, afterwards, to wit, on the same day and year, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiff well and truly to pay unto the said plaintiff the sum of money last mentioned, when the said defendant should be thereunto afterwards requested. And whereas, also, the said defendant afterwards, to wit, on the same day and year, and at the place aforesaid, in consideration that the said plaintiff had before that time, at the like special instance and request of said defendant, done, performed, and bestowed divers other work and labor, care and diligence, in and about the business of said defendant and for the said defendant, and had before that time found, provided, used, and applied divers other materials and other necessary things in and about that business, the said defendant then and there undertook and

faithfully promised the said plaintiff that the said defendant would well and truly pay the said plaintiff so much money as the said plaintiff reasonably deserved to have of the said defendant for the same, when the said defendant would well and truly pay the said plaintiff so much money as the said plaintiff reasonably deserved to have of the said defendant for the same, when the said defendant should be thereunto afterwards requested; and the said plaintiff aver that the said plaintiff therefore reasonably deserve to have of the said defendant for the same the further sum of nineteen hundred dollars, of like lawful money as aforesaid, to wit, at the place aforesaid, whereof the said defendant afterwards, to wit, on the same day and year, and at the place aforesaid, had notice. And whereas, also, the said defendant afterwards, to wit, on the same day and year, and at the place aforesaid, indebted to the said plaintiff in the sum of nineteen hundred dollars, of like lawful money as aforesaid, for divers goods, wares, and merchandise, by the said plaintiff, before that time sold and delivered to the said defendant, and at the like request of the said defendant. And in the further sum of nineteen hundred dollars of lawful money as aforesaid, for so much money before that time lent and advanced by the said plaintiff to the said defendant and at the request of the said defendant. And for other money by the said plaintiff before that time paid, laid out, and expended for the said defendant and at the request of the said defendant. And for other money by the said defendant before that time had and received to and for the use of the said plaintiff. And being so indebted, the said defendant in consideration thereof, afterwards, to wit, on the same day and year, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiff well and truly to pay unto the said plaintiff the said several sums of money in this count mentioned, when the said defendant should be thereunto afterwards requested. And whereas, also, the said defendant afterwards, to wit, on the same day and year, and at the place aforesaid, accounted together with said plaintiff of and concerning divers other sums of other money before that time due and owing from the said defendant to the said plaintiff and then and there being in arrear and unpaid, and upon such accounting the said defendant then and there found to be in arrear and indebted to the said plaintiff in the further sum of nineteen hundred dollars of like and lawful money as aforesaid. And being so found in arrear and indebted to the said plaintiff, the said defendant in consideration thereof, afterwards, to wit, on the same day and year, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiff well and truly to pay unto said plaintiff, the said sum of money last mentioned, when the said defendant should be thereunto afterwards requested.

50

Nevertheless, the said defendant, although often requested, &c., has not paid the several sums of money above mentioned, or any or either of them, or any part thereof to the said plaintiff, but to pay the same, or any part thereof, to the said plaintiff, the said defendant has hitherto altogether refused, and still does refuse to the damage

of the said plaintiff of two thousand dollars, and therefore the said plaintiff brings suit, &c.

CARPENTER & GRIDLEY,
Plaintiff's Attorney.

To the within defendant:

Take notice, that on the trial of this action, the plaintiff will give in evidence under the money counts of this declaration the coupons, copies of which are contained in the first count of this declaration.

CARPENTER & GRIDLEY,
Att'ys for Pl'ff.

And afterwards on the 8th day of January, 1861, came the defendant, by Mr. Knowlton, its attorney, and filed its plea in the words and figures following, to wit:

51 District court of the United States for the district of Wisconsin, January term, 1861.

SAMUEL C. MORGAN
vs.
THE TOWN OF BELOIT.

And the said town of Beloit comes and says that this court ought not to have or take further cognizance of the action aforesaid, because it saith that the said the town of Beloit is not a State of the United States of America, nor is it a citizen of the State of Wisconsin, nor is it a citizen of any other State of the United States than the State of Wisconsin, nor is it a foreign state, nor is it a citizen or subject of any foreign state, nor is it an ambassador or other public minister or consul, nor is it a corporation aggregate having capital stock or stockholders, nor is it any person whomsover, a stockholder of said town of Beloit, nor can any person whomsoever become a stockholder of the said town of Beloit, but the said town of Beloit is a governmental public body, and part of the State of Wisconsin, established and continued by legislative enactment of said State of Wisconsin solely for local governmental purposes. And this the said town of Beloit is ready to verify. Wherefore it prays judgment whether this court care or will take further cognizance of the action aforesaid.

JAMES H. KNOWLTON,
Atty. for the Town of Beloit.

STATE OF WISCONSIN, *Rock County, ss:*

On this seventh day of January, in the year of our Lord one thousand eight*een* hundred and sixty-one, came before me David Merrill, and made oath that he had heard read the foregoing plea of the town of Beloit and knows the contents thereof, and that said plea is true in substance and matter of fact. And further that he was and he is the chairman of the supervisors of the town of Beloit, in the county of Rock and State of Wisconsin.

DAVID MERRILL.
H. S. CONGER,
Com'r, Dist. Court, U. S., Dist. of Wis.

I hereby certify that in my opinion the foregoing plea of the town of Beloit is well founded.

Dated January 7th, 1861.

JAMES H. KNOWLTON,
Atty. and Counsel for the Town of Beloit.

52 District court of the United States of America for the district of Wisconsin.

SAMUEL C. MORGAN
vs.
THE TOWN OF BELOIT. } No. 152, Jan. term, 1861.

I, John M. Miller, clerk of the district court of the United States of America for the district of Wisconsin, do hereby report that in pursuance of an order of this court referring to me to ascertain and report the amount due the plaintiff, I have assessed the damages to the plaintiff at the sum of one thousand five hundred and forty dollars.

J. M. MILLER, *Clerk.*

Damages, $1.540.
Dated Jan. 9th, 1861.

District court of the United States of America for the district of Wis.

THE UNITED STATES OF AMERICA,
District of Wisconsin, ss:

Pleas before the Honorable Andrew G. Miller, judge of the district court of the United States for the district of Wisconsin.

SAMUEL C. MORGAN
vs.
THE TOWN OF BELOIT. } No. 152, Jan. term, 1861.—Assumpsit.

DECEMBER 22, 1860.

This day came the plaintiff, by his attorneys, Messrs. Carpenter & Gridley, and filed his præcipe for a summons in a plea of trespass on the case on promises, damages, $2,000.

Whereupon a summons issued returnable the first Monday of January next. Summons returned, and "served on the within named town of Beloit, by showing Perry Bostwick, the clerk of said town, this summons and delivering him a copy thereof, this 26th day of December, 1860. J. H. Lewis, marshal, by A. Rogers, deputy." Fees, $7 24.

DECEMBER 27, 1860.

This day came the plaintiff, by his attorneys, and filed his declaration.

JANUARY 8, 1861.

This day came the defendant, by its attorney, Mr. Knowlton, and filed its plea.

At a stated term of the district court of the United States of America for the district of Wisconsin, begun and held according to law, at the city of Milwaukee, on the 1st Monday (being the seventh day) of January, A. D. 1861. Present, the Honorable Andrew G. Miller, judge of the said court, presiding.

53

On the third day of said term, to wit: On the ninth day of January, A. D. 1861, the following proceedings were had, to wit:

This day came the plaintiff, by his counsel, and, on his motion, it is ordered by the court that the paper filed by the defendant's counsel as a plea be, and hereby is, stricken from the files as a nullity, and that the default of the defendant be, and is hereby, entered for its not pleading to the plaintiff's declaration herein filed, and that it be referred to the clerk to ascertain and report what sum the plaintiff ought to recover for his damages. The clerk reported in writing that he assessed the damages to the said plaintiff at the sum of one thousand five hundred and forty dollars.

Whereupon it is considered and adjudged by this court now here, that the said plaintiff do have and recover of the said defendant, the town of Beloit, the said sum of one thousand five hundred and forty dollars, with twenty-five dollars and seventy-four cents, his costs about his said suit in his behalf by him expended, and that he have execution therefor.

Judgment roll signed January 9th, A. D. 1861.

J. M. MILLER, *Clerk.*

Damages	$1,540 00
Costs	25 74
	1,565 74

54

JULY 2, 1866.

This day came the defendant, by his solicitor, and entered a rule that the complainant file its replication to the answer of the defendant before the first Monday of August, or this cause will be dismissed as of course.

AUGUST 7, 1866.

It appearing to the court here that the complainant has filed no replication to the answer of Samuel C. Morgan in this cause, as required by a former order entered in this cause, and on motion of Matt. H. Carpenter, solicitor for the defendant, ordered, that the bill of complaint in this cause be, and the same hereby is, dismissed for want of a replication.

SEPTEMBER 3, 1866.

This day came the parties, by their counsel, and filed their stipulation, bearing date August 20, 1866, that the order entered in this cause, dismissing the same for want of a replication, be vacated, and that the testimony be taken before Francis Bloodgood, and that this

cause be considered as set down for hearing on September 19, 1866, complainant first filing a replication.

And came the complainant, by its counsel, and filed its replication in the words and figures following, to wit:

Circuit court of the United States for the district of Wisconsin, in equity.

THE TOWN OF BELOIT,
vs.
SAMUEL C. MORGAN,

The replication of the town of Beloit, complainant, to the answer of Samuel C. Morgan, defendant:

This repliant, saving and reserving unto itself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto saith that it will aver and prove its said bill to be true, certain, and sufficient in the law to be answered unto, and that the said answer of the said defendant is untrue, uncertain, and insufficient to be replied unto by this repliant; without this, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied
55 unto, confessed and avoided, traversed or denied, is true; all which matters and things this repliant is and will be ready to aver and prove as this honorable court shall direct, and humbly prays as in and by its said bill it hath already prayed.

The town of Beloit—

By PALMER & HOOKER,
Its Solicitors.
H. L. PALMER, *of Counsel.*

SEPTEMBER 15, 1866.

This day came Francis Bloodgood, a commissioner of this court, and filed depositions in this cause, taken before him as such commissioner.

SEPTEMBER 20, 1866.

This day came the parties by their counsel, and filed stipulated testimony; and this cause came on to be heard upon the pleadings and proofs, and not being concluded, the further hearing was adjourned until to-morrow morning at nine o'clock.

SEPTEMBER 21, 1866.

This day came the parties by their counsel, and the hearing of this cause was resumed, and being concluded, the court took the same under advisement.

JANUARY 8, 1867.

This day came the parties by their counsel, and this cause having been submitted upon the pleadings and proofs, and argued by counsel;

on consideration whereof it is ordered, adjudged, and decreed by the court that the complainant's bill of complaint be, and hereby is, dismissed; and that complainant pay the costs to be taxed within ten days, or in default thereof an execution be issued for the same.

JANUARY 9, 1867.

This day came the complainant by its counsel, and in open court prayed an appeal to the Supreme Court of the United States from the decree entered in this cause; whereupon it is ordered by the court that an appeal be, and is hereby, allowed, and that complainant give bond for costs with surety in the penalty of two hundred and fifty dollars.

56 JANUARY 30, 1867.

This day came the complainant by his counsel, and filed appeal bond, with approval of the district judge indorsed thereon, in the words and figures following, to wit:

Supreme Court of the United States.

THE TOWN OF BELOIT
vs.
SAMUEL C. MORGAN. } On appeal. In equity.

Know all men by these presents, that we, Charles Peck, S. K. Blodgett, C. P. Whitford, and Richard Dole are held and firmly bound unto Samuel C. Morgan, above named, in the sum of two hundred and fifty dollars, to be paid to the said Samuel C. Morgan, his executors or administrators, to which payment, well and truly to be made, we bind ourselves, and each of us jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals and dated this sixteenth day of January, in the year of our Lord one thousand eight hundred and sixty-seven.

Whereas the above-named the town of Beloit has appealed to the Supreme Court of the United States from a certain decree dismissing the bill of complaint in the above-entitled cause, which said decree was made by the circuit court of the United States for the seventh circuit and district of Wisconsin, in equity, on the eighth day of January, A. D. 1867, in the above-entitled cause.

Now, therefore, the condition of this obligation is such, that if the said the town of Beloit shall prosecute its said appeal to effect, and answer all costs and damages, and any order or decree the said Supreme Court may make and render if the said the town of Beloit shall fail to make good its said appeal, then this obligation shall be void, otherwise the same shall remain in full force and effect.

[SEAL.] CHARLES PECK.
[SEAL.] S. K. BLODGETT.
57 [SEAL.] C. P. WHITFORD.
[SEAL.] RICHARD DOLE.

Sealed and delivered in the presence of—
D. W. C. CASTLE.

DISTRICT OF WISCONSIN, *Rock County, ss:*

Charles Peck, S. K. Blodgett, C. P. Whitford, and Richard Dole, being duly and severally sworn, do say, and each for himself says, that he is worth the sum of five hundred dollars, exclusive of property exempt from execution and his debts.

CHARLES PECK.
S. K. BLODGETT.
C. P. WHITFORD.
RICHARD DOLE.

Subscribed and sworn to before me, the 19th day of January, A. D. 1867.

D. W. C. CASTLE,
Commissioner Circuit Court United States, Dist. Wisconsin.

Indorsed: "This bond is approved.
"A. G. MILLER, *District Judge.*"

And on the hearing of this cause, the complainant, to maintain the issue on its part, offered and read in evidence the deposition of George H. Morse, as follows, to wit:

George H. Morse being called on behalf of the complainant, and being first duly sworn, did depose and testify as follows:

I reside in the town of Beloit, and am town clerk of that town. This volume, here produced, is the book of records of the town of Beloit, showing the proceedings of said town in town meetings, and the proceedings of the board of supervisors of said town for the period of time it purports to give the same, and is in my custody as town clerk of said town, and as a record of my office.

NOTE.—Said book or volume is now marked on the f't white leaf thereof, "F. Bloodgood, circuit court com'r," and the parties here-
by stipulate that it may be referred to as such at the trial
58 of the cause without further authentication, subject however to any objection by either party as to its relevancy or materiality, said volume being blank after page 328.

There is no other book of records of my town purporting to be a record of the proceedings of the town in town meeting, or of the board of supervisors for the time during which this book is a record.

Cross-exam.:

Ques. On page 286 of this book I find the word "void" written across the first entry thereon. Do you know when, where, or by whom it was written?

Ans. No; I never saw it before.

Ques. Have you any papers belonging to your office relating to this railroad matter?

Ans. I have some.

Ques. Where are they?

Ans. I suppose they are all in Mr. H. L. Palmer's possession, one of the solicitors in this cause. I can't swear that he has all, as I have not looked over them.

Ques. Can you state what papers he has?

Ans. They are the original papers that are put on record in this book; the notice for the railroad bond meeting; the proceedings of said meeting; the canvass of votes of said election. I can't say whether or not he has the contract made between the town and railroad company.

Ques. When and by whom were these papers delivered to Mr. Palmer?

Ans. I couldn't say. I did not deliver them to him personally; I delivered them to Supervisor Peck. I don't think they were all delivered to Peck at one time; the last were delivered to him some time last spring.

(Recess taken until 7½ p. m., when the parties appeared as before, and the examination of said witness was continued.)

(NOTE.—Four papers are here shown the witness.)

Ques. Are those papers in your office as town clerk?

Ans. They belong there.

(NOTE.—These four papers are here offered in evidence by
59 the solicitor for the defendant, and by stipulation between the parties here made copies thereof are to be made by the examiner and annexed to the depositions taken herein, marked Exhibits A, B, C, D, which copies are to be read on the trial hereof with the same effect as if the originals should be introduced and read, subject to the same objections.)

Witness further says that the papers, copies whereof are by stipulation here made, to be made by the examiner and annexed hereto, marked, respectively, Exhibits E, F, G, and H, are papers taken from the files of my office; and the parties here stipulate that the said copies may be read on the trial of this cause with the same effect as if the originals thereof should be then introduced and read, subject to the same objections as might be made to the originals.

(NOTE.—The signatures to the originals of all the said exhibits, except the signatures to the original of Exhibit G, are by the complainant here admitted to be genuine.)

(NOTE.—The copies of said original papers are to include all indorsements or memorandums made thereon.)

(NOTE.—It is now admitted by the complainant that the signatures of Gaston & Goddard to the original of Exhibit G are genuine.)

Re-direct:

Witness is shown a paper. and says that it was taken from the files of his office, and belongs in my office. It is indorsed filed April 7, 1853.

(NOTE.—By stipulation here made, a copy of this paper is to be made, marked Exhibit I, and annexed to these depositions, and read on the trial with the same effect as if the original were introduced and read, subject to the objections that could be taken to said original.)

Witness is shown two papers, and says they were also taken from the files of his office, and belong in his office.

(NOTE.—By stipulation here made, copies of said last papers are to be made, marked Exhibits K and L, and annexed to these depositions, and read on the trial with the same effect as if the originals were introduced and read, subject to the objections that could
60 be taken to said originals. The signatures to the originals of said exhibits, except that to the original of Exhibit I, are here admitted by the defendant to be genuine.)

The said originals of Exhibits I, K, and L are here introduced in evidence by the complainant in manner aforesaid, as said former ones were by the defendant.

G. H. MORSE.

Sworn to and subscribed before me, this 3d day of Sept'r, 1866.
FRANCIS BLOODGOOD,
Exam'r, &c.

Adjourned to Sept. 4, 1866, at 12 m.

The complainant further offered and read in evidence, on the hearing, the deposition of William H. Lathrop as follows, to wit:

William H. Lathrop, sworn on behalf of the complainant, says I reside in Racine city; I am the receiver of the Racine and Mississippi Railroad Company, (formerly the Racine, Janesville, and Mississippi R. R. Co.;) I was so appointed by the circuit court of Racine county. As such receiver the assets and papers of said company were passed over to me; I went into the office and took possession of said assets and papers, and still retain the same as such receiver. I have not in my possession as such receiver the original subscription of the town of Beloit to the capital stock of the Racine, Janesville, and Mississippi Railroad Company; that is, I have made a search among the papers of the company, and have been unable to find it. I have not in my possession as such receiver the original contract between Fisher, Keep, Talcott & Co., contractors, and said co. for building the road from Burlington to Beloit, though I have made thorough search for the same. I confined my search to the contract papers of the company, where it should be found, unless mislaid. The papers that I have not searched among are voluminous in said office.

61 Cross-examination:

I have a paper as such receiver purporting to be the consent of the town of Beloit to a certain consolidation of companies, which said paper the witness exhibits, and the counsel for the defendant offers it in evidence.

(NOTE.—It is stipulated between the parties that said paper may be copied by the commissioner, and that such copy, marked Exhibit M, be annexed to the depositions taken herein, and used and read on the trial with the same effect as the original.)

George A. Thompson is in the actual occupation of the office where the papers are, and has custody thereof, and access thereto, and has since I was appointed receiver.

Re-direct:

I have access to the office and control of the papers. I went through a search for the contract and subscription paper in question, to the extent that I deemed necessary to insure the finding of the papers, if there. Searched under the head of contracts and subscriptions. Had Fuller, the lawyer, to assist me, and also had some boys searching.

W. H. LATHROP.

Sworn to and subscribed before me, this 10th Sept., 1866.

FRANCIS BLOODGOOD,
Examiner, &c.

And the complainant further offered and read in evidence the deposition of Jackson J. Bushnel, as follows, to wit:

Jackson J. Bushnel being first duly sworn on behalf of the complainant, did testify and depose as follows:

I reside in the town of Rockton, Winnebago county, Illinois, just over the line of the town of Beloit, Wisconsin. In 1853 I resided in the town of Beloit, and from thence down to 1863.

62 Ques. Did you know anything about the transaction between the town of Beloit and Racine, Janesville & Mississippi R. R. Company, by which the R. R. company received from the town of Beloit its bonds in the neigborhood of ($100,000 00) one hundred thousand dollars?

Ans. I have only a general knowledge of the transaction by common report, except that I have seen the bonds purporting to be issued by the town to said railroad.

Ques. Do you know the defendant?

Ans. I do.

Ques. Do you know whether he owns any, and what, bonds, purporting to be issued by said town to said R. R. Co?

(Objected to as as immaterial, the fact not being in issue.)

Ans. I understand him to be the owner of some of those bonds; the numbers I am unable to state.

Ques. When did he become the owner of them?

Ans. He became the owner of some bonds in the spring of 1857.

Ques. Where, and from whom did he purchase them?

Ans. He purchased them from Fisher, Keep, Talcott & Co., of myself as the agent of said Fisher, Keep, Talcott & Co., at Norwich, Connecticut; I think in the spring of 1857. I can't give the month.

Ques. What am't of bonds did you sell him at that time?

Ans. Ten thousand dollars of the bonds, principal or par value.

Ques. What were the denominations of the bonds sold?

Ans. I don't recollect whether it was $500 or $1,000 ones.

Ques. Have you any memoranda from which you can ascertain the denominations and numbers of the bonds sold to defendant at that time?

Ans. I have memoranda at Beloit, or my residence near there, from which I can ascertain the same, I think.

Ques. At what price did you sell to the defendant the bonds you have mentioned?

(Objected to as immaterial.)

Ans. At 70 cents on the dollar par value; that is, I got $7,000 00 for $10,000 of the bonds, par value.

63 Ques. How many and what interest coupons were attached to each bond?

Ans. The coupons which had matured were cut off. Those that had not matured remained on the bonds. The coupons up to Feb'y 10, 1857, I think, were cut off, and not sold to him.

Ques. At that time did he own any other of those bonds? Was that the first sale to him?

Ans. That was the first sale to him so far as I know.

Ques. What became of the coupons sold to him which matured in Feb'y, 1857, and prior to that time?

Ans. I cut them off and held them for the benefit of Fisher, Keep, Talcott & Co. These and the coupons which matured in 1855, 1856, and 1857; am not sure that I myself cut off the coupons of 1855, but think I did.

Ques. Do you know that the coupons of 1855, 1856, and 1857 were cut off from the bonds sold the defendant at the time you sold them to him?

Ans. I am quite sure they were.

Ques. Can't you say you know the fact?

Ans. That is my recollection of it; my recollection is that I sold him ($10,000) of the bonds for $7,000 00, and that I cut off all the coupons that matured prior and up to 1857. I don't mean that I cut them off at the time of the sale; I had cut off these coupons at that and previous times. The circumstances were these: The bonds were hypothecated to a large amount with the Quinnebaug Bank of Norwich, Connecticut, as collateral security for loans to Fisher, Keep, Talcott & Co. The interest upon that loan I paid repeatedly, and when I paid such interest it was my custom to cut off the coupons on the bonds which had matured up to that time.

Ques. Had the bonds you sold the defendant been hypothecated to this bank prior to the time you made the sale to him, and how long?

Ans. They had been; I can't state how long, as the bonds were deposited with them at different times.

Ques. About how long had they been so hypothecated?

64 Ans. The first bonds were hypothecated with this bank, I think in the fall of 1855.

Ques. And the last when?

Ans. I think in the fall of 1856 or spring of 1857, I can't say which. I think fall of 1856.

Ques. Were the bonds you then sold the defendant in the possession of this bank at the time you made the sale?

Answer. They were.

Ques. Was the defendant the president of that bank?

Ans. He was. He was there at the bank in charge of its business. When I paid the interest on the loan I then cut off the matured cou-

pons. The interest was paid semi-annually, I think, while the coupons matured annually, so that interest was sometimes paid when no coupons were cut off. I sold no other bonds to him besides the $10,000 I have mentioned.

Ques. What was the relation existing between you and Fisher, Keep, Falcott & Co.?

Ans. I was merely their agent to procure loans for them at the east upon the security of these bonds and to sell the bonds for them. I think the first business I did for them of that kind was in 1854.

Ques. How long did your employment continue?

Ans. I don't wish to say that I was in their employ from 1854 to 1857, because I was not. It was simply a temporary employment at different times during that period. I would add to that that in 1854 my employment was but indirectly for them and directly for the Rock River Bank. The loans negotiated, however, inured to the benefit of Fisher, Keep, Talcott & Co. Perhaps I ought to add that in their behalf I carried on correspondence for them at different times in 1858.

Ques. What loans did you make for them of Quinnebaug Bank, (that is, Fisher, Keep, Tallcott & Co.,) for what time, for what am'ts, and what amount of the bonds of the town of Beloit, of what denominations and numbers were hypothecated for such loans, respectively?

Ans. I can't state these facts fully from memory. I think
65 the loans began in the fall of 1855 and were continued and increased from time to time till the spring of 1857, when I think they amounted to $30,000, and for that sum were hypothecated, I think, $45,000 of bonds. The loan was made at the rate of 66⅔ of the face of the bonds; that is, I deposited as security for a loan of $10,000 fifteen thousand dollars worth of the bonds, and at that rate.

Ques. Can you, by reference to your books or other memoranda, ascertain and state how many and what particular bonds you hypothecated with the Quinnebaug Bank, and how many and what particular bonds you sold the defendant Morgan, and the particulars of each transaction, and will you do so and furnish such information, and how soon?

Ans. I can't furnish the particulars of each transaction any further than I have, as they are matters of memory. In regard to the bonds sold to Morgan I think I can ascertain what those were and what numbers. In regard to the numbers of the bonds hypothecated the Quinnebaug Bank I am not sure that I can ascertain what those were. I am occupied with my regular business. I can't tell how soon I can ascertain such particulars of those transactions as I may have memoranda of, and don't know how much I can find.

Ques. Of all the bonds pledged with the Quinnebaug Bank were the interest coupons paid at the time they became due, and while the bonds were so pledged by either the town of Beloit, or the Racine, Janesville & Mississippi R. R. Co., upon any of them?

Ans. I don't know that they were paid upon any of them during that time?

Ques. Do you not know that they were not paid?

Ans. They were paid to my knowledge while in the possession of the Quinnebaug Bank.

(NOTE.—The parties here stipulate that at the hearing of this cause that it shall be admitted by both sides that the town of Beloit never paid any interest on any of those bonds.

Ques. Did not the defendant know that the interest coupons on the bonds you sold to him had not been paid while those bonds were in the possession of the Quinnebaug Bank at the time he made the purchase?

66 Ans. I suppose he knew as president of the bank that they had not been paid; that is, he knew they had not been paid formally and cancelled. He knew that there was an acc't between the R. R. co. and Fisher, Keep, Talcott & Co., and he knew those coupons belonged to Fisher, Keep, Talcott & Co., and whether any portion of them had been paid on ac. he did not know.

Ques. Did he not know that these coupons were not paid at the bank or the place where they were payable?

Ans. Yes.

Ques. Do you know when and from whom the defendant purchased and acquired the remaining bonds, aside from the $10,000 you have mentioned?

Ans. I don't know fully.

Ques. Do you know about any?

Ans. I know only by general information. Was not connected with the sale to him of any more.

Ques. What amount of those bonds had Fisher, Keep, Talcott & Co.?

Ans. They received in all $75,000.

Ques. $45,000 they pledged to the Quinnebaug Bank. What did they do with the remainder?

Ans. I pledged $7,500 of them to Webb, of Norwich; $20,000 were, I think, disposed of by Fisher, Keep, Talcott & Co. elsewhere, and $1,000 was hypothecated by a member of the co. with the Niatic Bank, Rhode Island, and $1,500, I think, sold in Norwich.

Ques. At what prices were they hypothecated, those that were hypothecated?

(Objected to as immaterial.)

Ans. Those that I hypothecated myself were in all cases at 66⅔ cents on the dollar. I have no certain knowledge as to the others, but understand at 50 cents and upwards.

Ques. Who disposed of the $20,000 of bonds?

Ans. I have no personal knowledge as to $15,000 of them. $5,000 of them I left with David Root, of New Haven, Connecticut, to be sold.

Ques. Do you know where Morgan got any of the bonds he owns, aside from the $10,000?

Ans. I have understood from him that $8,000 came into his hands from Mr. Webb's estate, that is, of those $7,500 were hypoth-

67 ecated to Mr. Webb, and $500 was a part of those hypothe-

ed to the bank, but was in Mr. Webb's hands. Then I have understood from him by correspondence that he purchased or took up from a bank in Hartford $10,000 more, but whether for himself or the Quinnebaug Bank I am unable to state.

Ques. Did you understand from him whether the coupons had been paid, up to the time he got the bonds, on those he acquired from the Webb estate or from the bank in Hartford?

Ans. I did not understand anything about it.

Ques. Were you in the Rock River Bank? when, and how long, and in what capacity?

Ans. I was in that bank, as temporary cashier, from the spring of 1858, (I might say perhaps from Oct., 1857,) till the 1st January, 1859.

Ques. Was the defendant, Morgan, a stockholder in that bank?

Ans. He was not a stockholder, except holding some stock as trustee for the Quinnebaug Bank; he was not a director.

Ques. Was the Quinnebaug Bank interested in the Rock River Bank?

Ans. In no other way than as the holder of stock as collateral to loans to L. G. Fisher and myself; different amounts at different times; one time about 24,000 dollars; another time about $14,000; this was part of the $24,000. The Rock River Bank did not hold any of those bonds as its own property, but did hold at one time considerable amount of coupons, no bonds, as collateral to loans to Fisher, Keep, Talcott & Co. Except that there was in 1854 a number of these bonds, don't know how many, placed in the hands of the bank by that firm, to be used to negotiate a loan for the bank for their benefit; afterwards the firm deposited coupons with the bank to secure its indebtedness to the bank. The use of the bonds for that purpose was for a very short time; afterwards the firm withdrew most of the coupons.

Ques. Were any of the coupons, after they had matured, sold or hypothecated to defendant Morgan?

Ans. I don't know that they were.

Ques. Were any of them sold or hypothecated to the Quinnebaug Bank?

68 Ans. I don't know how, but a part of the coupons, I understand to have come into their hands; I don't know fully how. There are some that were left with the Rock River Bank, that in the distribution of the assets of that bank, I think, came into the hands of the Quinnebaug Bank.

Question. When?

Ans. I think about 1863.

Question. Have you any means of determining what coupons they were?

Ans. I think I could determine the amount.

Ques. What was the amount?

Ans. I don't recollect, think one parcel was 800 dollars; and I think about $1,800 were embraced in a former suit. In these parcels I understand that both Mr. Morgan and the Quinnebaug Bank are interested.

Cross-examined, he testified as follows:

Question. Did you ever see on any of these bonds, after they passed from the railroad company, any of the coupons maturing the 10th February, 1854?

Ans. I did not.

JACKSON J. BUSHNELL.

Sworn to and subscribed before me, this 12th Sept., 1866.

FRANCIS BLOODGOOD,
Exam'r, &c.

The complainant further offered and read in evidence three papers marked respectively Exhibit I, K, and L, referred to in the deposition of George H. Morse, as follows:

Exhibit I, referred to in annexed deposition.

Special town meeting.

Proclamation was made at 9 o'clock a. m., at Burrough's Hall, in the village of Beloit, that the polls were open; N. B. Gaston, chairman of the board, presiding, and S. E. Downer and H. T. Woodward, jr., acting as inspectors of election, and E. Goddard and L. H. Streeter, acting as clerks of election. The chairman then stated the
69 business of the meeting; then proceeded to ballot. Polls closed at 5 o'clock p. m., and the inspectors of the election proceeded to canvass the votes, which resulted as follows, viz:

The whole number of votes cast were, 388.

For the railroad, 321.

Against the railroad, 67.

A majority of two hundred and fifty-four being in favor of issuing the bonds of the town of Beloit to aid in the construction of the Racine, Janesville, and Mississippi railroad, from the city of Racine to the village of Beloit. It was then moved the town furnish one or two kegs of powder to celebrate the result of said election.

We, the inspectors of election, hereby certify that the above is a true statement of said special town meeting.

Beloit, April 7, 1853.

(S'd) S. E. DOWNER,
Inspector of Election.

Rec'd and filed this 7th day of April, A. D. 1853.

(S'd) E. GODDARD, *T. C.*

Recorded 197.

Exhibit K, referred to in annexed deposition.

Resolved, That the board will accept a subscription from the people of Beloit to the capital stock of the company, to the amount of one hundred thousand dollars, payable in the bonds of the town of Beloit, running twenty years, bearing 7 per cent. interest, payable

annually in the city of New York, and conditioned that the road from Racine to Beloit be one division, and the stock therein a distinct stock, and also conditioned that the company provide for the payment of the interest on said bonds for said town until the completion of the road to Beloit.

I certify that the above resolution was passed by the board of directors of the Racine, Janesville, and Mississippi Railroad Company, March 8, 1853, and that the same remains on record.

(S'd) CHARLES S. WRIGHT, *Secretary.*

70 *Resolved*, That if the town of Beloit shall subscribe to the capital stock of this company the sum of one hundred thousand dollars upon the credit of said town, and the bonds of said town shall be issued therefor, the same shall be used and applied to the construction of the work, commencing at the village of Beloit.

The above resolution was adopted by the board April 1, 1853.

(Sd.) CHARLES S. WRIGHT, *Secretary.*

At a meeting of the directors of the Racine, Janesville, and Mississippi Railroad Company, held at the office of said company, in the city of Racine, Oct. 7, 1853, the following resolutions were adopted, viz:

Resolved, That the board of directors of this company do hereby fully ratify and confirm the agreement made and entered into by Henry S. Durand, as president of this company, and the supervisors of the town of Beloit, bearing date the 21st day of May, 1853, as the condition of the subscription of said town of Beloit to the capital stock of this company, as of the date of said agreement; but it is expressly understood that nothing contained in this resolution is to affect the arrangement made with the Rockton & Freeport Railroad Company for consolidating the stock of said company with the stock of this company, and as approved by the town of Beloit by the supervisors thereof.

Resolved, That whenever this company shall undertake the construction of the Rockton & Freeport railroad, the same shall be built in sections or divisions of not less than ten miles in length.

Resolved, That in case the bonds received from the town of Beloit in payment of the subscription to the capital stock of this company by said town can be negotiated so as to realize ninety-nine cents on the dollar, interest shall be allowed to said town on the proceeds of said bonds, at the rate of ten per cent per annum, from the time the money is realized on same until the road is completed to Beloit; but in such case the interest paid on said bonds by this company

71 shall be charged to said town.

Resolved, That the president of this company be authorized and instructed to give to George B. Sanderson a receipt for the bonds of the town of Beloit, this day delivered to this company by him, to wit: for fifty bonds of one thousand dollars each, and one hundred bonds of five hundred dollars each, in all one hundred thousand dollars; and also that he deliver to said Sanderson for said

town a certificate for one thousand shares of the capital stock of this company.

I, Charles S. Wright, sec'y of the Racine, Janesville & Mississippi Railroad Company, do hereby certify that the foregoing are true copies of resolutions passed by the board of directors of said company, and entered upon the minutes of the proceedings of said board.

Dated Racine, Oct. 7, 1853.

(Sd.) CHARLES S. WRIGHT, *Sec'ty.*

Indorsed: Racine R. R. Company resolutions, March 8 and April 1st, 1853.

Exhibit L, referred to in annexed depositions.

OFFICE OF THE RACINE & MISSISSIPPI RAILROAD CO.,
Racine, Wisconsin, Dec'r 2d, 1857.

Whereas this company, having complied with all its stipulations and undertakings in relation to the corporate subscriptions to its capital stock by the city of Racine, and the town of Racine, Elkhorn, Delavan, Beloit, and Rockton, and have provided for the payment of the interest on said bonds for more than one year after the opening of the road to the several towns; therefore—

Resolved, That the president and secretary notify the city and towns above named that provisions must be made by them for interest due on said bonds on the 10th day of February, 1858, and thereafter.

I certify that the foregoing is a copy of a resolution passed by the board of directors of the Racine and Mississippi Railroad Com-
72 pany at a legal meeting held Oct. 1st, 1857, and that it is the whole of said resolution.

(Sd.) A. J. REDBURN, *Sec'y.* [L. S.]

To the town clerk (for the supervisors) for the town of Beloit:

By order of—

H. J. DURAND, *President.*
A. J. REDBURN, *Sec'y.*

And the complainant further read in evidence, on the hearing of this cause, a stipulation as follows, to wit:

United States circuit court, district of Wisconsin.

THE TOWN OF BELOIT
vs.
SAMUEL C. MORGAN

It is admitted as a fact, on the hearing of this cause, that the village of Beloit, in the year 1853, was situated within the town of Beloit, on the line dividing the State of Wisconsin from the State

of Illinois, due south of, and fourteen miles from, Janesville, in Rock county, and that the village of Beloit has since been erected into the city of Beloit, and a copy of the map of the State of Wisconsin, or of Rock county, in said State, may be read on the hearing of this cause, or on appeal, without further proof.

Sept. 18, 1866.

MATT. H. CARPENTER,
For Def't.
PALMER & HOOKER,
Sol'rs for Compl't.

73 The defendant, Samuel C. Morgan, to maintain the issue on his part, offered and read in evidence a stipulation made before the examiner, as follows, to wit:

(NOTE.—The respective parties admit as a fact that the bonds pretended to have been issued by the town of Beloit to the Racine, Janesville, and Mississippi Railroad Company, amounting to the sum of $100,000 principal, are the only bonds ever issued by said town to or in aid of any railroad company, and agree that the same shall be an admitted fact on the hearing of this cause without further proof.)

The defendant further read in evidence, to maintain the issue on his part, the deposition of Henry S. Durand, as follows, to wit:

Henry S. Durand, being produced, sworn, and examined on behalf of the defendant, did depose and testify as follows:

I was the president of the Racine, Janesville, and Mississippi Railroad Company during all the years 1853 and 1854, until the name of the company was changed to the Racine and Mississippi Railroad Company, and then remained president of that company till the 1st January, 1865.

(NOTE.—The witness is here shown the original of Exhibit F to the deposition of Geo. F. Morse, and asked:)

Ques. Is that a contract between the town of Beloit and the Racine, Janesville, and Mississippi Railroad Company?

Ans. It is.

Ques. Were the bonds which were delivered by said town to said company accompanied by a coupon for one year's interest maturing in Feb'y, A. D. 1854?

(Objected to.)

Ans. I think they had.

Ques. What coupons, if any, were attached to said bonds?

Ans. The bonds ran 20 years, and interest annually, and there were 20 annual coupons attached to each bond, the first maturing in Feb'y, 1854.

74 Ques. What officer of said railroad company, if any, received said bonds from said town?

Ans. I think I received them as president of said company.

Ques. What, if anything, did said company do with the annual coupon on said bonds, which matured in Feb'y, A. D. 1854?

(Objected to as immaterial.)

Ans. They cut them off and cancelled them.

Ques. At what time was this done?

(Objected to on same grounds.)

Ans. I do not remember the precise time. My impression is that they were cut off as the company parted with the bonds from time to time. And the practice was to cut off the coupons of all bonds as they matured, so long as the bonds remained in the hands of the company.

Ques. Was that coupon, maturing in 1854, cut off and cancelled in pursuance of this contract which you have identified, or for or upon what other motive or consideration?

(Objected to as immaterial.)

Ans. The company made a contract for the grading of the road between Burlington and Beloit, in which the contractors were to receive these bonds in part payment at 95 cents on the dollar, and they were used by the company in paying such contractors from month to month as they earned them, and this first coupon was taken off the bonds from time to time as the bonds were delivered. I don't remember that it was done particularly in accordance with this contract with the town. I don't remember distinctly about it, but my impression is that it was, the company having assumed the interest. I know an interest ac. was stated with the contractors at the completion of their job.

Ques. Did the town of Beloit ever make any pay't or satisfaction of that first coupon either before or after its cancellation?

(Objected to as immaterial.)

Ans. Not to my knowledge.

Ques. Was the road completed to Beloit before February 10th, 1854—the said company's road?

(Objected to as immaterial.)

Ans. It was not.

75 Ques. Was this contract, Exhibit F aforesaid, the only contract made between the town and the company prior to the delivery of said bonds to the co. in regard to said bonds or the interest thereon?

(Objected to as immaterial.)

Ans. I don't remember of any other. I think there was no other.

Ques. Was there ever any agreement between said town and said company that the town should in any way, directly or indirectly, pay more than seven per cent. interest on said bonds, and was there any and what shift or device contemplated or resorted to to realize from said town more than seven per cent. interest on said bonds from and after the date of their delivery to the company?

(Objected to.)

Ans. There was not to my knowledge.

Ques. Do I understand you that the coupon maturing in Feb., 1854, was cut from all the bonds and cancelled by the co. before said bonds were parted with or disposed of by said company?

(Objected to for same reason as last above—immaterial.)

Ans. Such was the intention, but I could not say it was absolutely.

If it was not so on every bond, it was in consequence of mistake or oversight.

Cross-examination:

Ques. Did you execute this contract (Exhibit F) as the president of the railroad company and by their authority?

Ans. I executed it as president of the co. and with the knowledge of its board of directors, but don't remember that there was any special authority to do it, but think there was. Don't recollect positively about it.

Ques. Where are the books of the co. now?

Ans. If you mean the general books, they are in possession of Geo. A. Thompson, at Racine, or were, the last knowledge I had of them.

Ques. When was the name of the co. changed from the Ra-
76 cine, Janesville, and Mississippi Railroad Co. to the Racine and Mississippi Railroad Co.?

Ans. I don't recollect the date; don't recollect the year.

Ques. Was it after the issue of those bonds?

Ans. Yes; I think it was in 1854. It was in 1854 or 1855.

Ques. What time did you receive those bonds as president of the company?

Ans. Without reference to the receipt shown me, my impression was that it was not long after the contract was signed. I could not otherwise have recollected the date.

Ques. Were they received at the time of the date of the receipt shown you, (Exhibit H?)

Ans. I can't say. I could only give my impression, which is that I did receive them at the time of the date of such receipt, October 7, 1853.

Ques. Upon the receipt of those bonds, did you as president of the company deliver to the town or the officers of the town this receipt, (Exhibit H?)

Ans. I presume I did. I don't recollect this moment the particular fact, but I think I did. I might say I well remember Dr. G. B. Sanderson bringing the bonds into the office of the company.

Ques. Are the bonds referred to in this receipt the bonds about which you have testified?

Ans. They are.

Ques. Is the certificate of stock referred to in this receipt the certificate of stock given to the town for those bonds?

Ans. I think it is.

Ques. When was the contract for the building of the road from Burlington to Beloit that you have spoken of made?

(Objected to by the defendant because the question calls for testimony that is incompetent, irrelevant, and immaterial.)

Ans. I do not remember the date.

Ques. About what time?

Ans. My impression is that it was in 1854, that is as near as I can remember.

Ques. With whom was it made?

(Objected to as above.)

Ans. The firm of Fisher, Keep, Talcott & Co.

Ques. Were they to build the road from Burlington to
77 Beloit?

(Objected to as above.)

Ans. They were to do the grading and masonry. The contract with them was in writing.

Ques. Do you know where that contract is?

(Same objection.)

Ans. I think it is with the company's papers, in the hands of Geo. A. Thompson at Racine. Should be; but I don't know positively.

Ques. Have you a copy of it?

(Same objection.)

Ans. I have not.

Ques. Can you procure the contract or a copy of it?

(Same objection.)

Ans. I don't know that I can; I have no access to it or control over it. Don't know that it can be found.

Ques. When were the contractors to commence to build the road?

(Objected to as before and because the contract has been shown to be in writing.)

Ans. I do not remember.

Ques. Where did they commence?

(Same objection as before.)

Ans. I think their very first commencement was a point about twelve miles east of Delevan, and this fact reminds me that the contract must have been made earlier than February, 1854. I think it was made in the fall of 1853, as this work they commenced on was very heavy work, adapted to winter operations.

Ques. About when did they commence?

(Same objection.)

Ans. I could not say precisely whether before or after 1st January, 1854, but according to my best recollection it was late in the fall of 1853. They worked both east and west. The road was completed to Delevan in January, 1856. It was completed from Racine to Delevan in January, 1856. They commenced, I think, the work over the whole line; between Burlington and Beloit was commenced in the spring following their first commencement. The work was under let and commenced about the same time at different points along the line. The road was completed to Beloit in September, 1856. I don't remember the contract price for building the road from Bur-
78 lington to Beloit. My impression is that it was twenty-two cents a yard for earth work, fifty cents per yard for loose rock, one hundred dollars per yard for solid rock. A ratable portion of the monthly estimates was to be paid in these bonds. They agreed to take these bonds at ninety-five cents on the dollar and apply them on their contract. I think the bonds were about one-fourth the amount paid on the contract.

Adjourned to 4 p. m. September 5, 1866, when the parties ap-

peared as before, and the cross-examination of the witness was continued.

Ques. Do you recollect about what time the first payment of these bonds was made to the contractors?

(Same objection.)

Ans. I don't. I should think (my present recollection is) that the company advanced the contractors some of the bonds that were first parted with not long after they commenced their work.

Ques. Were they paid monthly?

Ans. I think that some of these bonds were advanced them before they earned them, that they might negotiate them and raise money on them.

Ques. Do I understand you that the bonds were paid out from month to month until the work was completed, and that all the coupons that were due at the time of such several payments were cut off and cancelled?

(Some objection.)

Ans. I think the bonds were not paid out monthly, or every month, but that the contractors had them generally in advance in amounts that would provide for several months' payments. I do not think the coupons were cut off after the first one. I think all the coupons except the first one went with the bonds.

Ques. Were any of these bonds delivered to the contractors when the coupons that were past due were not cut off and cancelled?

Ans. My impression is that all the coupons past due on the bonds were cut off before delivering to the contractors, but that they afterwards claimed them under their contract, and got them. The
79 company at one time suspended the work for several months, and was also delinquent in its payments, and the contractors claimed interest on account thereof, and an interest account was then stated on the bonds advanced the contractors with the coupons on; the company charged them with the interest on some up to the time they earned them under their contract at the rate of seven per cent., and the company allowed the contractors interest at twelve per cent. on any cash which was not paid properly when due them. The first coupon was cut off, it having matured, or nearly so, before they earned any part of the bonds, and I think the first coupon was never delivered them.

Ques. How was this contract let—to the lowest bidder?

(Same objection.)

Ans. It was let to the lowest bidder, considering the terms of payment which was proposed.

Ques. Was any difference made in the amount of the contract price by reason of a part of the payments being made in those bonds?

(Same objection.)

Ans. I think the bid accepted was higher than some of the cash bids.

Ques. About what difference was made on ac. of the payments being made in those bonds?

(Same objection.)

Ans. I think that the proportion of the job for which those contractors were to take those bonds at 95 cents on the dollar, could have been, I think, let for 10 or 15 per cent. lower for cash.

Ques. About what am't of those bonds were paid over to the contractors under this contract?

(Same objection.)

Ans. I think $85,000.

Ques. Do you recollect what was done with the balance of the $100,000?

Ans. I do not.

Ques. Did the company ever take up the coupons which fell due before the road was completed to Beloit, or pay the interest on the bonds to that time?

(Same objection.)

80 Ans. I don't remember that the company ever paid any interest on the bonds.

Ques. Was the stock held by the town of Beloit ever merged in the stock of any other road, branch, or corporation?

(Same objection.)

Ans. It was.

Ques. Was any other contract made between the co. and the town of Beloit than this contract that you have spoken of?

(Same objection.)

Ans. There was an agreement made between the town and the co. that such stock might be merged in another company.

Ques. When was that agreement made?

(Same objection.)

Ans. I don't recollect, but I think in 1855. It was between the company and the board of supervisors of the town of Beloit, in writing, I think. I don't know where this agreement is, but think it is with the company's papers in Racine.

HENRY S. DURAND.

Sworn to and subscribed before me, this 5th day of Sept'r, 1866.

FRANCIS BLOODGOOD,
Examiner in Chancery.

Henry S. Durand, recalled by the defendant, says:

Ques. At the time the contract was made between the R. R. co. and the town, a copy of which is attached as an exhibit to this testimony, how long thereafter was it expected that it would be necessary to complete the road to Beloit?

(Objected to as irrelevant and immaterial.)

Ans. I do not remember that any time was fixed in the contract. There was no reason to expect it could be done in less than two years, but I don't think we had any definite time in view.

Cross-examined by complainant, he testified as follows:

Question. Were the bonds all prepared and printed by the railroad company, ready for execution, and taken by them to Beloit for that purpose?

Ans. I think the railroad company had the bonds printed,
81 and sent them to Beloit to be executed.

Ques. Had any officer of the town anything to do with drawing up the form of the bond, printing, or preparing them for execution?

Ans. I don't think they did.

HENRY S. DURAND.

The defendant further offered and read in evidence, on the hearing of this cause, eight papers, marked respectively Exhibits A, B, C, D, E, F, G, and H, attached to and referred to in the deposition of George H. Morse, as follows, to wit:

Exhibit A, referred to in annexed depositions.

To the electors of the town of Beloit:

GENTLEMEN: I hereby offer to purchase at par from the town of Beloit twenty thousand dollars' worth of the stock in the Racine, Janesville, and Mississippi Railroad Company, in case the town shall vote to issue its bonds for one hundred thousand dollars worth of said stock. I will indemnify the town against the said $20,000 of its bonds, and from all interest that may accrue upon them, reserving the right to have the said $20,000 subscribed under my direction.

April 4, 1853.

Respectfully, &c.,

(S'd) A. L. FIELD.

Indorsed: A. L. Field's proposition to take R. R. stock.

Exhibit B, referred to in annexed depositions.

I hereby offer to purchase at par from the town of Beloit $25,000 of stock in the Racine, Janesville, and Mississippi R. R. Co., in case the town shall vote to issue its bonds for one hundred thousand dollars of said stock. I will give the town suitable indemnity against the said $25,000 of its bonds, and the interest accruing on the same, reserving the right to have the said stock subscribed under
82 my direction.

Beloit, April 4, 1853.

To the electors of the town of Beloit.

(S'd) J. HACKET

Indorsed: J. Hacket's proposition to take R. R. stock.

Exhibit C, referred to in annexed depositions.

I will take from $10,000 to $25,000 of the stock in the Racine and Mississippi R. R., off from the hands of the town of Beloit, providing they take the same. I will take it on the following terms: giving my

bonds to town to pay all interest on their bonds for the privilege of taking the same amount of stock off their hands, and cancel for them same amount of bonds any time within five years, I reserving dividends on stock, and the town paying to me an amount each year up to that time equal to the tax collected from said railroad corporation in said town.

April 4, '53.

(S'd) L. G. FISHER.

Indorsed: L. G. Fisher's proposition for railroad stock.

Exhibit D, referred to in annexed depositions.

I hereby propose to the town of Beloit to contract with them to purchase from $20,000 to $25,000 of the stock in the Racine, Janesville & Mississippi Railroad Co., in case the town shall vote to issue their bonds for the same. I propose to purchase said stock of said company of the town at par, and indemnify the town against that amount of their bonds to be issued for said stock. This to be an open proposition for the acceptance of the town within ten days after the town shall vote to issue their bonds.

Dated April 4, 1854.

(S'd) JOHN M. KEEP.

Indorsed: Proposals to the town of Beloit to take the $100,000 stock of the Racine and Mississippi R. R. Co.

83 Rec'd and filed in the town clerk's office this 5th day of April, A. D. 1853.

(S'd) E. GODDARD, *T. Clerk.*

Exhibit E, referred to in annexed depositions.

At a meeting of the board of supervisors of the town of Beloit, held at the office of the town clerk of said town, May 9th, 1856, it was resolved as follows: Whereas the board of directors of the Racine and Mississippi Railroad Company have entered into articles of consolidation with the board of directors of the Savannah Branch Railroad Company, and whereas the town of Beloit owns one thousand shares of the capital stock of the Racine and Mississippi Railroad Company, now, therefore—

Resolved, That said articles of consolidation be, and they are hereby, fully ratified, confirmed, and approved, and that D. W. C. Castle be, and he hereby is, authorized in the name and behalf of the town of Beloit to sign its approval to such consolidation.

Dated at Beloit, 9 May, 1856.

(S'd) D. W. C. CASTLE,

(S'd) G. W. BICKNELL,

Supervisors of the Town f Beloit.

Indorsed: R. R. consolidation, ratified May 9, 1856.

Exhibit F, referred to in annexed depositions.

An agreement made and entered into this 21st day of May, 1853, between the town of Beloit, by John Easterly, George B. Sanderson, and Allen Warden, the board of supervisors of said town, party of the first part, and the Racine, Janesville, and Mississippi Railroad Company, party of the second part, witnesseth: Whereas the board of supervisors of the town of Beloit have subscribed for and in behalf of said town for one thousand shares of the capital stock of the said company, by an article of subscription dated this day, in pur-
84 suance of an act of the legislature of the State of Wisconsin, entitled "An act to authorize the town of Beloit to aid in the construction of a certain railroad from the city of Racine to the village of Beloit," approved February 10, 1853. Now, in consideration of said subscription by the town of Beloit aforesaid, and of one dollar in hand paid by the party of the first part to the party of the second part, the said party of the second part doth hereby covenant and agree to and with the party of the first part, as follows:

First. That the bonds of the said town of Beloit to be issued for the amount of said subscription shall in no case be sold in market for less than 95 cents on the dollar, without the consent of the board of supervisors of the said town, or their agents.

Second. That the amount of said subscription as soon as realized shall be expended upon that portion of said railroad commencing at Beloit and running east to Delevan.

Third. That said company will pay all interest that may accrue on said bonds up to the time said railroad shall be fully completed to Beloit.

Fourth. That the stocks subscribed by the town of Beloit shall be entitled to at least one director in the board said company.

Fifth. That the stock owned by the town of Beloit shall in no case be merged in the stock of any other road, branch, or corporation whatever, nor be liable to any assessment for any liability or contract of the said company with any other road, branch, or corporation, without the consent of the said town of Beloit, unless the said railroad company shall take or offer to take the said stock off from the hands of the town of Beloit at its value in the market, not below par.

In witness whereof the supervisors of the said town, in behalf thereof, have hereunto set their hands and seals, and the said company, by its president and secretary, has also signed the same, and caused the seal of the said company to be hereto affixed, the
85 day and year aforesaid.

(S'd) JOHN EASTERLY, [SEAL.]
(S'd) GEO. B SANDERSON, [SEAL.]
(S'd) ALLEN WARDEN, [SEAL.]
Supervisors of the Town of Beloit.

The Racine, Janesville, and Mississippi Railroad Company—
(S'd) By H. S. DURAND, *President.* [L. S.]

Indorsed: Agreement between the supervisors of the town of

Beloit and Racine, Janesville, and Mississippi Railroad Co. Received and filed in this office, May 23d, A. D. 1853.

(S'd) S. E. WEED, *T. C.*
Pr. L. H. STREETER, *D. T. C.*

Recorded on page 201 and 202, town record.

(S'd) L. H. S.

Exhibit G, referred to in annexed depositions.

Election held April 7, 1853, called by the board of supervisors, in pursuance of an act entitled "An act to authorize the town of Beloit to aid in construction of a certain railroad from the city of Racine to the village of Beloit," approved February 10, A. D. 1853, and the act amendatory thereto, notice of said election having been given in pursuance of said act.

Proclamation was made at 9 o'clock a. m., at Burroughs' Hall, in the village of Beloit, that the polls were open; N. B. Gaston, chairman of the board, presiding; and S. E. Downer and H. T. Woodward, jr., acting as inspectors of election; and E. Goddard and L. H. Streeter, acting as clerks of election.

The chairman then stated the business of the meeting; then proceeded to ballot. Polls closed at five o'clock p. m., and the inspectors of election proceeded to canvass the votes, which resulted as follows, viz:

The whole number of votes cast were, 388.

For the railroad ..... 321.

Against the railroad, 67.

A majority of two hundred and fifty-four being in favor of authorizing the board of supervisors of the town of Beloit to
86 subscribe for the town of Beloit one hundred thousand dollars to the capital stock of a railroad company authorized to construct a railroad from the city of Racine to the village of Beloit, and to pay for the same in the bonds of the said town, payable in twenty years, with interest, payable annually in the city of New York, not exceeding seven per cent.

We, the inspectors of election, hereby certify that the above is a true statement of said election.

Attest: (S'd) N. B. GASTON,
(S'd) H. T. WOODWARD, JR.,
(S'd) S. E. DOWNER,
Inspectors of Election.

(S'd) E. GODDARD,
(S'd) L. H. STREETER,
Clerks of Election.

Indorsed: Returns of railroad election.

Exhibit H, referred to in annexed deposition.

OFFICE OF RACINE, JANESVILLE & MISSISSIPPI RAILROAD COMPANY,
Racine, Oct. 7, 1853.

Received of the town of Beloit, by hands of Doct. George B. Sanderson, fifty bonds of one thousand dollars each, numbered one to fifty, inclusive; and one hundred bonds numbered fifty-one to one hundred and fifty, inclusive, issued by said town to this company, dated May 21, 1853, payable twenty years from date, with interest, at the rate of seven per centum per annum, payable annually in the city of New York, with twenty coupons attached to each bond, said bonds being in full for one thousand shares of stock in this company, subscribed for by said town, and for which stock a certificate has been issued and delivered to said Sanderson for said town, bearing date the 3d day of October, 1853, and numbered eight, (8.)

(S'd) By order of the board of directors:

[L. S.] HENRY S. DURAND, *President.*

Indorsed: Racine, J. & M. R. R. Co. Receipt for Beloit bonds, $100,000.

87 The defendant, further to maintain the issue on his part, offered and read in evidence a paper marked Exhibit M, referred to in the deposition of W. H. Lathrop, as follows, to wit:

Exhibit M, referred to in annexed depositions.

OFFICE OF RACINE & MISSISSIPPI RAILROAD CO.,
Racine, Wisconsin, October 27, 1856.

At a meeting of the board of directors of the Racine & Mississippi Railroad Company, held at their office this day, the following resolution was adopted, viz:

Whereas it has heretofore been proposed by the people of Rockford to furnish the means and construct a railroad from the city of Rockford to its intersection of the line of the Racine & Mississippi railroad at Rockton, provided the Racine & Mississippi Railroad Company will agree to equip and operate said Rockford road, and consolidate the stock thereof with the stock of the Racine and Mississippi railroad when so constructed and ready for operation, provided the same shall be built as well and at no higher cost per mile than the average quality and cost per mile of the said Racine & Mississippi railroad. Therefore—

Resolved, That L. G. Fisher, C. Herrick, W. T. Goodhue, John Williams, W. C. Allen, F. U. Merrill, and S. D. Clough be a committee for the purpose of calling on the stockholders of this company, or a majority of them, and obtaining their names in writing upon the question of consolidating the stock of this company with a railroad from Rockton to Rockford, upon the terms and conditions heretofore proposed by the people of Rockford, and that said committee be au-

Beloit and Racine, Janesville, and Mississippi Railroad Co. Received and filed in this office, May 23d, A. D. 1853.

(S'd) S. E. WEED, *T. C.*
Pr. L. H. STREETER, *D. T. C.*

Recorded on page 201 and 202, town record.

(S'd) L. H. S.

Exhibit G, referred to in annexed depositions.

Election held April 7, 1853, called by the board of supervisors, in pursuance of an act entitled "An act to authorize the town of Beloit to aid in construction of a certain railroad from the city of Racine to the village of Beloit," approved February 10, A. D. 1853, and the act amendatory thereto, notice of said election having been given in pursuance of said act.

Proclamation was made at 9 o'clock a. m., at Burroughs' Hall, in the village of Beloit, that the polls were open; N. B. Gaston, chairman of the board, presiding; and S. E. Downer and H. T. Woodward, jr., acting as inspectors of election; and E. Goddard and L. H. Streeter, acting as clerks of election.

The chairman then stated the business of the meeting; then proceeded to ballot. Polls closed at five o'clock p. m., and the inspectors of election proceeded to canvass the votes, which resulted as follows, viz:

The whole number of votes cast were, 388.

For the railroad.....321.
Against the railroad, 67.

A majority of two hundred and fifty-four being in favor of authorizing the board of supervisors of the town of Beloit to
86 subscribe for the town of Beloit one hundred thousand dollars to the capital stock of a railroad company authorized to construct a railroad from the city of Racine to the village of Beloit, and to pay for the same in the bonds of the said town, payable in twenty years, with interest, payable annually in the city of New York, not exceeding seven per cent.

We, the inspectors of election, hereby certify that the above is a true statement of said election.

Attest: (S'd) N. B. GASTON,
(S'd) H. T. WOODWARD, JR.,
(S'd) S. E. DOWNER,
Inspectors of Election.

(S'd) E. GODDARD,
(S'd) L. H. STREETER,
Clerks of Election.

Indorsed: Returns of railroad election.

Exhibit H, referred to in annexed deposition.

OFFICE OF RACINE, JANESVILLE & MISSISSIPPI RAILROAD COMPANY,
Racine, Oct. 7, 1853.

Received of the town of Beloit, by hands of Doct. George B. Sanderson, fifty bonds of one thousand dollars each, numbered one to fifty, inclusive; and one hundred bonds numbered fifty-one to one hundred and fifty, inclusive, issued by said town to this company, dated May 21, 1853, payable twenty years from date, with interest, at the rate of seven per centum per annum, payable annually in the city of New York, with twenty coupons attached to each bond, said bonds being in full for one thousand shares of stock in this company, subscribed for by said town, and for which stock a certificate has been issued and delivered to said Sanderson for said town, bearing date the 3d day of October, 1853, and numbered eight, (8.)

(S'd) By order of the board of directors:

[L. S.] HENRY S. DURAND, *President.*

Indorsed: Racine, J. & M. R. R. Co. Receipt for Beloit bonds, $100,000.

87 The defendant, further to maintain the issue on his part, offered and read in evidence a paper marked Exhibit M, referred to in the deposition of W. H. Lathrop, as follows, to wit:

Exhibit M, referred to in annexed depositions.

OFFICE OF RACINE & MISSISSIPPI RAILROAD CO.,
Racine, Wisconsin, October 27, 1856.

At a meeting of the board of directors of the Racine & Mississippi Railroad Company, held at their office this day, the following resolution was adopted, viz:

Whereas it has heretofore been proposed by the people of Rockford to furnish the means and construct a railroad from the city of Rockford to its intersection of the line of the Racine & Mississippi railroad at Rockton, provided the Racine & Mississippi Railroad Company will agree to equip and operate said Rockford road, and consolidate the stock thereof with the stock of the Racine and Mississippi railroad when so constructed and ready for operation, provided the same shall be built as well and at no higher cost per mile than the average quality and cost per mile of the said Racine & Mississippi railroad. Therefore—

Resolved, That L. G. Fisher, C. Herrick, W. T. Goodhue, John Williams, W. C. Allen, F. U. Merrill, and S. D. Clough be a committee for the purpose of calling on the stockholders of this company, or a majority of them, and obtaining their names in writing upon the question of consolidating the stock of this company with a railroad from Rockton to Rockford, upon the terms and conditions heretofore proposed by the people of Rockford, and that said committee be au-

thorized to procure such assistance as they may deem proper, and report to this board as soon as possible.

I certify the foregoing to be a correct copy from the records of proceedings of the board of directors.

A. J. REDBURN, *Sec'y.*

Stockholders' names.	In favor of consolidation.	Opposed to consolidation.
U. L. Yost, David Merrill, E. G. Berment, supervisors of the town of Beloit, Rock county, Wisconsin	1,000	

NOTE.—All this exhibit is in printed characters except the signatures of Yost, Merrill Bement, supervisors of the town of Beloit, Rock county, Wisconsin, and figures 1,000.

F. BLOODGOOD, *Exam'r, &c.*

Circuit court of the United States for the district of Wisconsin.

88 The defendant further read in evidence the following stipulation, to wit:

It is hereby stipulated and agreed that in all the causes pending in said court, at law or in equity, in which the town of Beloit is a party, whether as defendant at law or complainant in equity, either, any, or all of the foregoing exhibits, numbered respectively 1, 2, 3, 4, 6, 7, 8, 9, and 10, may be read in evidence on trial or hearing in said court, they being extracts from the book of records of said town, with the same effect as though properly authenticated and exemplified; and that in all said causes said exhibit No. 4 may be read as proof of proceedings by the Racine, Janesville, and Mississippi Railroad Company, as the same purports, and no further proof shall be required of such proceedings.

This stipulation is entered into to save expense in taking testimony.

Dated August 24, 1866.

PALMER & HOOKER,
Sol'rs for Compl't.
M. H. CARPENTER,
Sol. for Def't.

We further stipulate that in the law cases either party may read any of the testimony taken in the equity case.

M. H. CARPENTER.
PALMER & HOOKER.

And the defendant further offered and read in evidence under said stipulation, Exhibits 1, 2, 3, 4, 6, 7, 8, 9, and 10, as follows:

89 *Exhibit No.* 1.

Election called by the board of supervisors in pursuance of an act entitled "An act to authorize the town of Beloit to aid in the construction of a certain railroad from the city of Racine to the village of Beloit," approved February 10th, A.D.1853, and the act amendatory thereto, notice of said election having been given in pursuance of said act. Proclamation was made at 9 o'clock a. m. at Burrough's Hall, in the village of Beloit, that the polls were open. N. B. Gaston, chaiman of the board, presiding, and S. E. Downer and H. T. Woodward, jr., acting as inspectors of election, and E. Goddard and S. H. Streeter acting as clerks of election. The chairman then stated the business of the meeting, then proceeded to ballot. Polls closed at five (5) o'clock p. m., and the inspectors of the election proceeded to canvass the votes, which resulted as follows, viz:

The whole number of votes cast were 388.

For the railroad, 321.

Against the railroad, 67.

A majority of two hundred and fifty-four being in favor of authorizing the board of supervisors of the town of Beloit to subscribe for the town of Beloit one hundred thousand dollars to the capital stock of a railroad company, authorized to construct a railroad from the city of Racine to the village of Beloit, and to pay for the same in the bonds of the said town, payable in twenty years, with interest payable annually in the city of New York not exceeding seven per cent.

It was then moved that the town furnish one or two kegs of powder to celebrate the result of said election.

We, the inspectors of election hereby certify that the above is a true statement of said election.

Beloit, April 7, 1853.

S. E. DOWNER,
Inspector of Election.

Attest: A true copy.

L. H. STREETER, *D. T. C.*

90 *Exhibit No.* 2.

1853. Adj'd annual town meeting.

An adjourned town meeting was held at Borrough's Hall, in the town of Beloit, in pursuance of a motion made April 5th, 1853, at the regular meeting (annual.) In the absence of the chairman of the board of supervisors, George B. Sanderson acted as such, and Samuel E. Weed and H. Streeter a clerk.

The following resolution was then offered by John Hackett, esq., to wit:

Whereas the town of Beloit, at an especial town meeting held for that purpose, voted to subscribe for $100,000 dollars of the stock in a railroad from Racine to Beloit and to issue the bonds of the town

in payment for such stock; and whereas several persons have offered to purchase said stock from the town; therefore—

Resolved, That the present board of supervisors, and they are hereby authorized to, sell any part or all of the stock in the railroad from Racine to Beloit, at their discretion, at a price not below par.

Motion was then offered to lay the above resolution on the table, and carried.

Exhibit No. 3.

At a meeting of the board of supervisors of the town of Beloit, held at the village of Beloit on the fifth (5) day of October, 1853. Present, John Easterly, George B. Sanderson, and Allen Warden.

Resolved, That the chairman of the board of supervisors, with the clerk and treasurer of the town of Beloit, make and execute under the seal of the town of Beloit the bonds of said town, numbering from one to fifty, inclusive, for the sum of one thousand dollars each, and also numbering from fifty-one to one hundred and fifty, inclusive, for five hundred dollars each, being in all one hundred thousand dollars, pursuant to the act authorizing the town of Beloit to aid in the
91 construction of the Racine, Janesville, and Mississippi railroad, and pursuant to the terms of a subscription heretofore made by the board of supervisors to the capital stock of the Racine, Janesville, and Mississippi Railroad Company, and that Geo. B. Sanderson, one of the board of supervisors, be authorized to deliver the same to the Racine, Janesville, and Mississippi Railroad Company, upon said company making and executing to said board of supervisors of the town of Beloit the necessary papers and agreements to secure to the town of Beloit the fulfilment on the part of said railroad company of all the conditions upon which said subscription was originally made.

Dated Beloit, Oct. 5, 1853.

_____ _____,

_____ _____,

Supervisors.

Attest:

M. V. PASCO, *Clerk.*

Exhibit No. 4.

OFFICE OF RACINE, JANESVILLE, AND MISS. RAILROAD COMPANY,
Racine, Oct. 7, 1853.

Received of the town of Beloit, by hands of Doct. George B. Sanderson, fifty bonds of one thousand dollars each, numbered one to fifty inclusive, and one hundred bonds of five hundred dollars each, numbered fifty-one to one hundred and fifty inclusive, issued by said town to this company, dated May 21st, 1853, payable twenty years from date, with interest at the rate of seven per cent. per annum, payable annually in the city of New York, with twenty coupons attached to each bond, said bonds being in full for one thousand shares of stock in this company, subscribed for by said town, and for which stock a

certificate has been issued and delivered to said Sanderson for said town, bearing date the 3d day of October, 1853, and numbered eight (8.)

By order of the board of trustees,

[SEAL.] HENRY S. DURAND, *President.*

92 *Resolutions of the Racine, Janesville, and Miss. Railroad.*

Resolved, That the board will accept a subscription from the people of Beloit to the capital stock of the company to the amount of one hundred thousand dollars, payable in the bonds of the town of Beloit, running twenty years, bearing 7 per cent. interest, payable annually in the city of New York, and conditioned that the road from Racine to Beloit be one division and the stock therein a distinct stock; and also conditioned that the company provided for the payment of the interest on said bonds for said town until the completion of the road to Beloit.

I certify that the above resolution was passed by the board of directors of the Racine, Janesville, and Miss. Railroad Company, March 8th, 1853, and that the same remains on record.

CHARLES S. WRIGHT, *Secretary.*

Resolved, That if the town of Beloit shall subscribe to the capital stock of the company the sum of one hundred thousand dollars upon the credit of said town, and the bonds of said town shall be issued therefor, the same shall be used and applied to the construction of the work commencing at the village of Beloit.

The above resolution was adopted by the board April 1st, 1853.

CHARLES S. WRIGHT, *Secretary.*

At a meeting of the directors of the Racine, Janesville & Mississippi Railroad Company, held at the office of said company in the city of Racine, Oct. 7th, 1853, the following resolutions were adopted, viz:

Resolved, That the board of directors of this company do hereby fully ratify and confirm the agreement made and entered into by Henry S. Durand, president of this company, and the supervisors of the town of Beloit, bearing date the 21st day May, 1853, as the condition of the subscription of said town of Beloit to the capital stock of this company, as of the date of said agreement; but it is ex-
93 pressly understood that nothing contained in this resolution is to affect the arrangement made with the Rockton and Freeport Railroad Company for consolidating the stock of said company with the stock of this company, and as approved by the town of Beloit by the supervisors thereof.

Resolved, That whenever this company shall undertake the construction of the Rockton and Freeport railroad, the same shall be built in sections or divisions of not less than ten miles in length.

Resolved, That in case the bonds received from the town of Beloit, in payment of the subscription to the capital stock of this company by

the said town, can be negotiated so as to realize ninety-nine cents on the dollar, interest shall be allowed to said town on the proceeds of said bonds at the rate of ten per annum from the time the money is realized on the same until the road is completed to Beloit; but in such case the interest paid on said bonds by this company shall be charged to said town.

Resolved, That the president of this company be authorized and instructed to give to George B. Sanderson a receipt for the bonds of the town of Beloit, this day delivered to the company by him, to-wit: fifty bonds of one thousand dollars each, and one hundred bonds of five hundred dollars each, in all one hundred thousand dollars; and also that he deliver to said Sanderson for said town a certificate for one thousand shares of the capital stock of this company.

I, Charles S. Wright, secretary of the Racine, Janesville, and Mississippi Railroad Company, do hereby certify that the foregoing are true copies of resolutions passed by the board of directors of said company, and entered upon the minutes of the proceedings of said board.

Dated Racine, Oct. 7, 1853.

CHARLES S. WRIGHT, *Secretary.*

94 *Exhibit No.* 6.

1854. Annual town meeting, April 4th, 1854.

Proclamation was made at 9 o'clock a. m., at Borrough's Hall, in the village of Beloit, that the polls were now open. John Easterly was the chairman of the board presiding, and B. C. Sewall and George Golden, inspectors of election, and M. V. Pasco and D. Coley, as clerks of election. The chairman then delared the order of business according to law.

Financial report of the board was then read, and on motion was then referred to a committee, consisting of S. G. Coley, Samuel Hinman, and S. J. Todd, for examination; it was then moved that two assessors and two constables be elected, which motion was carried.

On motion, the following amounts were ordered to be raised for the following purposes, and to pay outstanding orders, viz:

For the support of the poor $500
Incidental expenses 500
Two mills on the dollar for school fund.
Three mills on the dollar for highways.

It was moved and carried that it should be left discretionary with the board to loan the poor fund or not, just as they saw fit.

Res., That the board of supervisors be authorized to transfer to any parties the stock subscribed in the R. J. & M. R. R. Co., when said parties will deliver up to said board the bonds of the town, and not till then.

Exhibit No. 7.

1856. Appointment of railroad commissioner.

STATE OF WISCONSIN, *County of Rock, ss:*

We, the undersigned supervisors of the town of Beloit, in said county of Rock, do hereby constitute and appoint William T. Goodhue, R. R. commissioner, to cast the number of votes to which the town
95 of Beloit is entitled to vote at the annual election of directors of the Racine and Mississippi company, which said election is to be held at the office of said company, in the city of Racine, on the 16th day of January, A. D. 1856.

In witness whereof we have hereto set our names, this first day of January, A. D. 1856.

S. G. COLLEY,
D. W. C. CASTLE,
GEO. W. BICKNELL,
Supervisors of the Town of Beloit.

Attest:

JAMES W. STRONG,
Town Clerk.

(Error in copying the above.)

Exhibit No. 8.

1856. Adjourned town meeting, Tuesday, April 15th, 1856.

An adjourned annual town meeting was held at Murray's Hall, in the village of Beloit, on Tuesday, the 15th day of April, A. D. 1856, which was duly called to order by the chairman of the board of supervisors, S. G. Colley, between the hours of nine and ten a. m., and an adjournment until two o'clock p. m. was immediately voted.

John M. Keep, esq., then offered the following resolution:

Resolved, "That the supervisors of this town be authorized to take up the one hundred thousand dollars ($100,000) of bonds heretofore issued to the Racine and Mississippi R. R. Company, and issue new bonds to the same amount, convertible into the stock of the said company, and that said change be made at the expense of the bondholders."

The above resolution was adopted.

96 *Exhibit No. 9.*

1856. Meeting of the board of supervisors. Certificate to transfer R. R. stock for town bonds. Beloit, Wis., May 2d, 1856.

The board of supervisors met at the town clerk's office, on Friday, May 2d, 1856, and voted to make a proposal to transfer the shares of the capital stock of the R. J. and Miss. R. R. Co. subscribed for by the town of Beloit to the holders of the bonds of the said town issued to pay for said stock, May 21st, 1853, in payments of said

bonds, upon their surrender of the same, with the unpaid interest warrants, by the said holders, to the treasurer of the town; and by order of the board there were issued one hundred certificates, of which a copy is transcribed below, with the blank before work "stocks" filled with the word "five," and fifty of said certificates with said blank filled with the word "ten."

Copy of certificate.

UNITED STATES OF AMERICA,
Beloit, Rock County, and State of Wisconsin:

Whereas the town of Beloit, by special authority of the legislature of the State of Wisconsin, and vote of the legal voters of said town, did, on the 21st day of May, 1853, subscribe for one thousand shares of the capital stock of the Racine, Janesville, and Mississippi Railroad Company, and issue the bonds of said town to the amount of one hundred thousand dollars, running twenty years, and bearing seven per cent. interest in payment of, for said stock; and whereas the act of the legislature authorizing the issue of said bonds provides that the supervisors of said town may sell said railroad stock and apply the proceeds thereof to the payment of said bonds; and whereas at the annual town meeting of said town, held on the 4th day of April, 1854, a resolution was duly passed fully authorizing the supervisors to transfer to the holders of said bonds the stock so held by said town, in payment and satisfaction of the same, on the surrender of said bonds to said town.

Now, therefore, in pursuance of the above authority, the
97 board of supervisors of said town will transfer to the holder of the annexed bond shares of said stock in payment and satisfaction thereof, on surrendering the same, together with the unpaid interest warrants, to the treasurer of said town.

By order of the board of supervisors.

Dated Beloit, Wisconsin, this second day of May, 1856.

[SEAL.] A. G. COLLY, *Chairman.*

Attest:

JAMES W. STRONG, *Clerk.*

Board then adjourned.

JAMES W. STRONG,
Town Clerk.

Exhibit No. 10.

1856. Meeting of the board of supervisors, May 9th, 1856.—Railroad consolidation ratified.

At a meeting of the board of supervisors of the town of Beloit, held at the office of the town clerk of said town, May 9th, 1856, the following resolution was adopted:

Whereas the board of directors of the Racine and Mississippi Rail-

road Company have entered into articles of consolidation with the board of directors of the Savannah Branch Railroad Company; and whereas the town of Beloit owns one thousand shares of the capital stock of the Racine and Mississippi Railroad Company, now therefore—

Resolved, That said articles of consolidation be, and they are hereby, fully ratified, confirmed, and approved; and that D. W. Castle be, and hereby is, authorized in the name and behalf of the town of Beloit, to sign its approval to such consolidation.

The above resolution was dated May 9th, 1856, and signed D. W. C. Castle and G. W. Bicknell, supervisors of said town.

Attest: JAMES W. STRONG,
Town Clerk.

And the defendant further offered and read in evidence, on the hearing of this cause, a certified copy of the record in a cause at law, between the same parties, wherein the present defendant was plaintiff, as follows, to wit:

98 UNITED STATES OF AMERICA, *District of Wisconsin, ss:*

I, A. Scott Sloan, clerk of the circuit court of the United States of America for the district of Wisconsin, do hereby certify that I have compared the writings annexed to this certificate, and they are true copies of their respective originals, and are correct transcripts therefrom and of the whole thereof, now on file and remaining of record in my office. having been transferred to this office by act of Congress, approved June 27th, 1864.

In testimony whereof I have hereunto set my hand and duly affixed the seal of the said court at the city of Milwaukee, in the said district of Wisconsin, this 20th day of September, in the year of our Lord one thousand eight hundred and sixty-six, and of the independence of the said United States the ninety-first.

[SEAL.] A. SCOTT SLOAN, *Clerk.*
By JAMES McFARLIN, *Deputy.*

[5-cts. rev. stamp]

99 UNITED STATES OF AMERICA, *District of Wisconsin, ss:*

At a stated term of the district court of the United States of America for the district of Wisconsin, begun and held according to law, on the first Monday of January, A. D. 1861, at the city of Milwaukee in said district of Wisconsin, present and presiding the Hon. Andrew G. Miller, district judge.

On the third day of the term, to wit, on the ninth day of January, A. D. 1861, the following proceedings were had, to wit:

SAMUEL C. MORGAN
vs. } Assumpsit.
THE TOWN OF BELOIT.

Be it remembered that heretofore, to wit, on the twenty-second day of December, A. D. 1860, the above-named plaintiff, by Messrs. Car-

penter & Gridley, filed in the office of the clerk of the district court of the United States for the district of Wisconsin his præcipe for a summons, in the words and figures following, to wit:

DISTRICT OF WISCONSIN, *ss:*

District court of the United States for the district Wisconsin.

SAMUEL C. MORGAN
vs.
THE TOWN OF BELOIT.

To the clerk of said court:

Issue summons, assumpsit, in above-entitled action returnable at the January term 1861, in assumpsit damages two thousand dollars.

CARPENTER & GRIDLEY,
Atty's for Plff.

Dec. 22d, 1860.

Whereupon a summons issued in the words and figures following, to wit:

THE UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the marshal of the district of Wisconsin, greeting:

You are hereby commanded to summon the town of Beloit to appear before the district court of the United States of America for the district of Wisconsin aforesaid at Milwaukee, on the first Monday of January ensuing, then and there to answer unto Samuel C. Morgan, in a plea of trespass on the case on promises, to his damage, 100 two thousand dollars, which shall then and there be made to appear. And of this writ make due return.

Witness the Hon. Andrew G. Miller, judge of the said district court of the United States, at the city of Milwaukee, in the said district of Wisconsin, this twenty-second day of December, in the year of our Lord one thousand eight hundred and sixty, and of the independence of the United States the eighty-fifth.

[SEAL.] J. M. MILLER, *Clerk.*

CARPENTER & GRIDLEY,
Attorneys.

And afterwards, on the 27th day of December, 1860, came the marshal, and made return of the summons, indorsed thereon as follows, to wit:

Served on the within named town of Beloit, by showing Perry Bostwick, the clerk of said town, this summons, and delivering him a copy thereof, this 26th day of December, 1860.

J. H. LEWIS, *Marshal.*
By A. ROGERS, *Deputy.*

Fees, $7 24.

And afterwards, on the same day, came the plaintiff, by his attorneys, and filed his declaration in the words and figures following, to wit:

District court of the United States for the district of Wisconsin, of the January term, A. D. 1861.

DISTRICT OF WISCONSIN, *ss:*

Samuel C. Morgan, who is a citizen of the State of Connecticut, plaintiff in this suit, by Carpenter & Gridley, his attorneys, complains of the town of Beloit, a corporation created and existing by and under the laws of the State of Wisconsin, defendant in this suit, of a plea of trespass on the case upon promises; for that whereas the said defendant heretofore, to wit, on the 21st day of May, 1853, by authority granted to it by the legislature of the State of Wisconsin, by chapter twelve of the private laws of said State, A. D. 1853, approved February 10, 1853, and entitled "An act to authorize the town of Beloit to aid in the construction of a certain railroad from the city of Racine to the village of Beloit," did make, issue, and deliver to the Racine, Janesville, and Mississippi Railroad Company the bonds of the said defendant, to the amount in all of one hundred thousand dollars, partly in sums of one thousand dollars each, and partly in sums of five hundred dollars each, in and by which said bonds the said defendant agreed and promised to pay the said railroad company, or to the holder, meaning bearer, of said bonds respectively the said several sums of one thousand and five hundred dollars, mentioned in said bonds respectively, together with interest thereon at the rate of 7 per cent., payable annually on the 10th day of February in each year thereafter, until February 10th, A. D. 1873, when the principal sum mentioned in said bonds respectively became due and payable, said interest to be paid on presentation of certain coupons or interest warrants to said bonds respectively attached, which coupons or interest warrants were an agreement on the part of the defendant to pay the several payments of interest on said bond to become due by its terms, as the same should become due, there being one coupon for each payment of interest on said bond,
101 and that said bonds were of the tenor following, except numbers, amounts which were different in different bonds; that is to say:

By special authority of the State legislature.

UNITED STATES OF AMERICA,
Town of Beloit, State of Wisconsin:

No. 96. $500.

The town of Beloit acknowledge themselves to owe the Racine, Janesville, and Mississippi Railroad Company the sum of five hundre dollars for five shares of one hundred dollars each in the capital stoc of said company, subscribed for and purchased of said company by said town, which sum said town promise to pay to said company, or to

the holder hereof, at their office in the city of New York, on the 10th day of February, 1873, and also interest thereon at the rate of seven per centum per annum, payable annually on the tenth day of each February ensuing the date hereof, until the said principal sum shall be paid on presentation of the annexed interest warrant at said office. And it is further agreed that this obligation, and all rights and benefits arising therefrom, may be transferred by general or special indorsement or by delivery, as if the same were a note of hand payable to bearer.

In testimony whereof the board of supervisors of said town have caused to be affixed its corporate seal and these presents, to be subscribed by their chairman and attested by the clerk thereof, this 21st day of May, 1853.

[L. S.] JOHN EASTERLY,
Chairman.

Attest:

M. V. PASCO. *Clerk.*

I, M. V. Pasco, clerk of the town of Beloit, do hereby certify that the following obligation is issued in pursuance of a special act of the legislature of the State of Wisconsin, entitled "An act to authorize the town of Beloit to aid in the construction of a certain railroad from the city of Racine to the village of Beloit," approved February 10th, 1853, and sanctioned by a majority of the legal voters of said town at an election held for such purpose April 7, 1853.

M. V. PASCO.

That the said plaintiff is the holder and owner of coupons which were attached to said bonds, of which the following are copies, and which have been duly presented at the proper time for payment at the office of said railroad company, being the Racine and Mississippi Railroad Company, in the city and State of New York, and payment thereof refused; that is to say:

The town of Beloit will pay seventy dollars on the 10th day of February, 1855, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 31, issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 31, issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day
102 of February, 1855, at the office of the Racine, Janesville, and

Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 32, issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 32, issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 33, issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1855, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 34, issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 34, issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1855, at the office of the Racine, Janesville, and Mississippi, Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 40, issued to said company, by order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

The town of Beloit, will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town,

number 40, issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1855, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being interest due on that day on the bond of said town, number 41, issued to said town. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 41, issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

103 The town of Beloit will pay seventy dollars on the 10th day of February, 1855, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 35, issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1866, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 35, issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1855, at the office of the Racine, Janesville, and Mississippi Railroad Company in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 36, issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 36, issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1855, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 37, issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *easurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 37, issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1855, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 38, issued to said company. By order of the board of supervisors.

$70 W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 38, issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1855, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presen-
104 tation hereof, being the interest due that day on the bond of said town, number 39, issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

The town of Beloit will pay seventy dollars on the 10th day of February, 1856, at the office of the Racine, Janesville, and Mississippi Railroad Company, in the city of New York, on presentation hereof, being the interest due that day on the bond of said town, number 39, issued to said company. By order of the board of supervisors.

$70. W. W. DEXTER, *Treasurer.*

And that the plaintiff is now the holder, owner, and bearer of each and every of said coupons, and that the same are due, and the said defendant refuses to pay the same, though often requested.

And also:

For that, whereas the said defendant, on the 21st day of May, in the year one thousand eight hundred and fifty-three, at the city of Beloit, in said district, was indebted to the said plaintiff in the sum of nineteen hundred dollars, lawful money of the United States of America, for the work and labor, care and diligence, of said plaintiff by the said plaintiff before that time done, performed, and bestowed in and about the business of the said defendant and for the said defendant, and at the special instance and request of the said defendant, and also for divers materials and other necessary things by the said plaintiff found, provided, used, and applied in and about that work, at the special instance and request of the said defendant, and being so indebted to the said plaintiff, the said defendant in consideration thereof, afterwards, to wit: on the same day and year, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiff, well and truly to pay unto the said plaintiff the sum of money last mentioned when the said defendant should be thereunto afterwards requested. And whereas, also, the said defendant afterwards, to wit, on the same day and year, and at the place aforesaid, in consideration that the said plaintiff had before that time, at the like special instance and request of said defendant done, performed, and bestowed divers other work and labor, care and diligence, in and about the business of said defendant and for the said defendant, and had before that time found, provided, used, and applied divers other materials and other necessary things in and about that business, the said defendant then and there undertook and faithfully promised the said plaintiff that the said defendant would well and truly pay the said plaintiff so much money as the said plaintiff reasonably deserved to have of the said defendant for the same, when the said defendant would well and truly pay the said plaintiff so much money as the said plaintiff reasonably deserved to have of the said defendant for the same when the said defendant should be thereunto afterwards requested; and the said plaintiff aver that the said plaintiff therefore reasonably deserve to have of the said defendant for the same the further sum of nineteen hundred dollars, of like lawful money as aforesaid, to wit: at the place aforesaid, whereof the said defendant afterwards, to wit, on the same day and year, and at the place aforesaid, had notice. And whereas, also, the said defendant afterwards, to wit, on the same day and year, and at the place aforesaid, indebted to the said plaintiff in the sum of nineteen hundred dollars, of like lawful money as aforesaid, for divers goods, wares, and merchandise, by the said plaintiff before that time sold and delivered to the said defendant, and at the like request of the said defendant. And in the further sum of nineteen hundred dollars of lawful money as aforesaid, for so much money before that time lent and advanced by the said plaintiff to the said defendant and at the request of the said defendant. And for other money by the said plaintiff before that time paid, laid out, and expended for the said defendant and at the request of the said defendant. And for other money by the said defendant before that time

had and received to and for the use of the said plaintiff. And being so indebted, the said defendant in consideration thereof, afterwards, to wit, on the same day and year, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiff well and truly to pay unto the said plaintiff the said several sums of money in this count mentioned, when the said defendant should be thereunto afterwards requested. And whereas, also, the said defendant afterwards, to wit, on the same day and year, and at the place aforesaid, accounted together with said plaintiff of and concerning divers other sums of other money before that time due and owing from the said defendant to the said plaintiff, and then and there being in arrear and unpaid, and upon such accounting the said defendant then and there found to be in arrear and indebted to the said plaintiff in the further sum of nineteen hundred dollars of like and lawful money as aforesaid. And being so found in arrear and indebted to the said plaintiff, the said defendant in consideration thereof, afterwards, to wit, on the same day and year, and at the place aforesaid, undertook, and then and there faithfully promised the said plaintiff, well and truly to pay unto the said plaintiff the said sum of money last mentioned, when the said defendant should be thereunto afterwards requested.

Nevertheless, the said defendant, although often requested, &c., has not paid the several sums of money above mentioned, or any or either of them, or any part thereof to the said plaintiff, but to pay the same or any part thereof, to the said plaintiff, the said defendant has hitherto altogether refused, and still does refuse, to the damage of the said plaintiff of two thousand dollars, and therefore the said plaintiff brings suit, &c.

CARPENTER & GRIDLEY,
Plaintiff's Attorneys.

To the within defendant:

Take notice, that on the trial of this action, the plaintiff will give in evidence under the money counts of this declaration the coupons, copies of which are contained in the first count of this declaration.

CARPENTER & GRIDLEY,
Att'ys for Pl'ff.

And afterwards, on the 8th day of January, 1861, came the defendant, by Mr. Knowlton, its attorney, and filed its plea in the words and figures following, to wit:

106 District court of the United States for the district of Wisconsin, January term, 1861.

SAMUEL C. MORGAN
vs.
THE TOWN OF BELOIT.

And the said town of Beloit comes and says that this court ought not to have or take further cognizance of the action aforesaid, because it saith that the said the town of Beloit is not a State of the United

States of America, nor is it a citizen of the State of Wisconsin, nor is it a citizen of any other State of the United States than the State of Wisconsin, nor is it a foreign state, nor is it a citizen or subject of any foreign state, nor is it an ambassador or other public minister or consul, nor is it a corporation aggregate having capital stock or stockholders, nor is it any person whomsoever, a stockholder of said town of Beloit, nor can any person whomsoever become a stockholder of the said town of Beloit, but the said town of Beloit is a governmental public body, and part of the State of Wisconsin, established and continued by legislative enactment of said State of Wisconsin, solely for local governmental purposes. And this the said town of Beloit is ready to verify. Wherefore it prays judgment whether this court care or will take further cognizance of the action aforesaid.

JAMES H. KNOWLTON,
Att'y for the Town of eloit.

STATE OF WISCONSIN, *Rock County, ss:*

On this seventh day of January, in the year of our Lord one thousand eight*een* hundred and sixty-one, came before me, David Merrill, and made oath that he had heard read the foregoing plea of the town of Beloit, and knows the contents thereof, and that said plea is true in substance and matter of fact. And further, that he was and he is the chairman of the supervisors of the town of Beloit, in the county of Rock, and State of Wisconsin.

DAVID MERRILL.

H. S. CONGER,
Com'r Dist. Court, U. S. Dist. of Wis.

I hereby certify that, in my opinion, the foregoing plea of the town of Beloit is well founded.

Dated January 7th, 1861.

JAMES H. KNOWLTON,
Att'y and Counsel for the Town of Beloit.

107 District court of the United States of America for the district of Wisconsin.

SAMUEL C. MORGAN
vs.
THE TOWN OF BELOIT. } No. 152, Jan. term, 1861.

I, John M. Miller, clerk of the district court of the United States of America for the district of Wisconsin, do hereby report that in pursuance of an order of this court referring to me to ascertain and report the amount due the plaintiff, I have assessed the damages to the plaintiff at the sum of one thousand five hundred and forty dollars.

Damages, $1,540 00.

Dated Jan. 9th, 1861.

J. M. MILLER, *Clerk.*

UNITED STATES OF AMERICA, *District of Wisconsin, ss:*

District court of the United States of America for the district of Wis.

Pleas before the Honorable Andrew G. Miller, judge of the district court of the United States for the district of Wisconsin.

SAMUEL C. MORGAN *vs.* THE TOWN OF BELOIT. } No. 152, Jan. term, 1861.—Assumpsit.

DECEMBER 22, 1860.

This day came the plaintiff, by his attorneys, Messrs. Carpenter and Gridley, and filed his præcipe for a summons in a plea of trespass on the case on promises; damages, $2,000.

Whereupon a summons issued returnable the first Monday of January next. Summons returned, and "served on the within named town of Beloit, by showing Perry Bostwick, the clerk of said town, this summons and delivering him a copy thereof, this 26th day of December, 1860. J. H. Lewis, Marshal, by A. Rogers, deputy. Fees, $7 24."

DECEMBER 27, 1860.

This day came the plaintiff, by his attorneys, and filed his declaration.

JANUARY 8, 1861.

This day came the defendant, by its attorney, Mr. Knowlton, and filed its plea.

At a stated term of the district court of the United States of America for the district of Wisconsin, begun and held according to law, at the city of Milwaukee, on the 1st Monday (being the
108 seventh day) of January, A. D. 1861. Present, the Honorable Andrew G. Miller, judge of the said court, presiding.

On the third day of said term, to wit, on the ninth day of January, A. D. 1861, the following proceedings were had, to wit:

This day came the plaintiff by his counsel, and on his motion it is ordered by the court that the paper filed by the defendant's counsel as a plea be, and hereby is, stricken from the files as a nullity, and that the default of the defendant be, and is hereby, entered for its not pleading to the plaintiff's declaration herein filed, and that it be referred to the clerk to ascertain and report what sum the plaintiff ought to recover for his damages. The clerk reported in writing that he assessed the damages to the said plaintiff at the sum of one thousand five hundred and forty dollars.

Whereupon it is considered and adjudged by this court now here, that the said plaintiff do have and recover of the said defendant, the town of Beloit, the said sum of one thousand five hundred and forty dollars, with twenty-five dollars and seventy-four cents—his costs

about his said suit in his behalf by him expended, and that he have execution therefor.

Damages	$1,540 00
Costs	225 74
	1,565 74

Judgment roll signed January 9, A. D. 1861.

J. M. MILLER, *Clerk.*

109 UNITED STATES OF AMERICA,
District of Wisconsin, ss:

I, A. Scott Sloan, clerk of the circuit court of the United States of America for the district of Wisconsin, do hereby certify that I have compared the writings annexed to this certificate, and they are true copies of their respective originals, and are correct transcripts therefrom, and of the whole thereof now on file and remaining of record in my office.

In testimony whereof I have hereunto set my hand and duly affixed the seal of the said court at the city of Milwaukee, in the said district of Wisconsin, this 8th day of February, in the year of our Lord one thousand eight hundred and sixty-seven, and of the independence of the said United States the ninety-first.

[SEAL.]

A. SCOTT SLOAN, *Clerk.*
By JAMES McFARLIN, *Deputy.*